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URBAN/MUNICIPAL

Hamilton, Ont. Council
Committee Agenda -
PLANNING AND DEVELOPMENT
Committee
April 1987-



THE CORPORATION OF THE CITY OF HAMILTON

City Hall, 71 Main Street West, Hamilton, Ontario

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1987 April 23

NOTICE OF MEETING

Planning and Development Committee
Wednesday, 1987 April 29
2:00 o'clock p.m.
Room 233, City Hall

CA4 ON HB 2 A05

CSIP4

1987

Susan K. Reeder

Susan K. Reeder, Acting Secretary

SKR:jf

AGENDA

- A. Delegation - Hamilton & District Home Builders Association -
re: City of Hamilton Cash-in-Lieu of Parkland By-Law 84-252.
1. Minutes of the meeting held Wednesday, 1987 March 11.
2. Building Department
 - (a) Demolition Permits
 - (i) 169 Hunter Street East
 - (ii) 171 Hunter Street East
 - (iii) 44 Evans
 - (iv) 109 Inchbury Street
 - (v) 45 Walnut Street South
 - (vi) 45 Hillyard Street
 - (vii) 47 Hillyard Street
 - (viii) 159 Nash Road South
3. Real Estate Department
 - (a) Extension of Closing Date - Sale of 66-76 Fullerton Ave.
 - (b) Sale - Part of Lot 10, Plan M-352 - Hamilton Industrial Park
#3 -Battaglia Sewer Contractor Limited

4. Engineering Department

- (a) Subdivision - 5% Park Payment
- (b) 5% Cash - In Lieu Payments (Report to follow)
 - (i) Aspen West - Phase 2
 - (ii) Brigadoon Village Extension
 - (iii) Randall Estates - Phase 5
 - (iv) Sherman Oaks - Phase 4
 - (v) Stonegate Manor - Phase 2
 - (vi) Wisemount Forest Survey - Phase 3, Stage 1

5. Community Development Department

- (a) Commercial Facade Loan Programme (For Information)

6. City Solicitor's Department

- (a) Application by Lakeview Development Ltd. for City's Approval of Mortgages

7. L.A.C.A.C.

- (a) St. Clair Heritage District


Public Meeting - 3:00 o'clock p.m.

- 8. Zoning Application ZA-87-15, Apans Health Services, owner, for a further modification to the "DE-2" District regulations for property municipally known as No. 45 Lockton Crescent; Lawfield Neighbourhood.
Public Meeting - 3:00 p.m.
- 9. Zoning Application ZA-87-21, Aceti's Pizzeria & Tavern Ltd., owner for a modification to the "H" District regulations for property at No. 1491 Main Street East; Homeside Neighbourhood.
Public Meeting - 3:00 p.m.
- 10. Zoning Application ZA-87-22, Forest James Investments Ltd., prospective owner, for a change in zoning from "L-mr-2" to "E-3" for properties at Nos. 169, 171 and 179 Hunter Street East; Corktown Neighbourhood.
Public Meeting - 3:00 p.m.
- 11. Zoning Application ZA-87-24, D.K.H. Badour, owner, for a modification to the "C" District regulations for property at No. 1635 King Street East; Delta East Neighbourhood.
Public Meeting - 3:15 p.m.

12. Zoning Application ZA-87-32, Homestarts Inc., prospective owner, for a change in zoning from "D" and "J" to "DE-3" modified, for properties at Nos. 194 to 214 Forest Avenue and 88 Aurora Street; Corktown Neighbourhood.
Public Meeting - 3:15 p.m.
13. Site Plan Control Application Approval (For Information)
14. Site Plan Control Application DA-87-10, Cayuga Materials and Construction Co. Ltd., owner, of lands at the west side of Upper Ottawa Street, south of Rymal Road East; Hannon West Neighbourhood.
- 15 a) Status Report on demand Responsive Planning Projects.
b) High Density Residential Development Study - Terms of Reference (P5-4-7-15)
16. Implementation of Section X of the City Subdivision Agreement requiring the erection of signs for plans of subdivision (D.2.4)
- 17 a) Urban Design Committee - Triangle of City-owned land, east of the proposed Parking Garage, York Boulevard
b) James Street North Streetscape

PUBLIC MEETING - 7:30 P.M.

18. James Street North Community Plan Commercial Facade Loan Programme
19. Zoning Application ZA-85-19 and Site Plan Control Application DA-86-47, St. Elizabeth Home Society of Hamilton, owner, for a change in zoning from "AA" to "Multiple Residential" for lands on the south side of Rymal Road West in the area east of Garth Street; Kennedy East and Kennedy West Neighbourhood.
Public Meeting - 7:30 p.m.



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**HAMILTON &
DISTRICT
HOME
BUILDERS
ASSOCIATION**

A member of the Canadian
Home Builders' Association

RECEIVED

APR 3 1987
CITY CLERKS

1112 Rymal Rd. E., [Corner of Upper Ottawa]
Hannon P.O. Box 188, Hamilton, Ontario L0R 1P0 Tel. 575-3344

April 1, 1987

City of Hamilton
71 Main St.W.
Hamilton, Ontario
L8N 3T4

Att: Mr. J.Thompson, Secretary
Planning & Development
Committee

RE: CITY OF HAMILTON CASH-IN-LIEU OF PARKLAND
BY-LAW 84-252

Dear Sir:

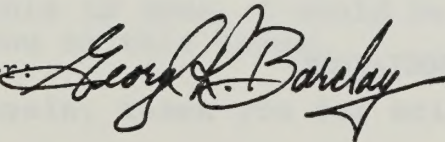
The Hamilton District Home Builders' Association request to appear before the Planning & Development Committee to discuss the newly implemented "Cash-In-Lieu of Parkland" policy which has a significant impact on the cost of building a home in the City of Hamilton. This policy adds approximately \$2000.00 to the cost of a serviced building lot with a market value of \$45,000.00.

We enclose herewith our correspondence with The Honorable Bernard Grandmaitre, Minister of Municipal Affairs who's staff is currently reviewing the matter.

Our request to the Committee is to withhold implementation of the policy subject to resolution of the matter at the local and provincial levels.

We trust this is satisfactory and look forward to your confirming the necessary arrangements.

Yours truly,
HAMILTON & DISTRICT HOME BUILDERS' ASSOCIATION

Per: 

George R. Barclay
Chairman, Development Council

c.c. Mr. T. Cochren
President
Ontario Home Builders' Assoc
c/o Tannco Const.Co.Ltd.

GB/md

Donald May
May, Pirie & Associates Ltd.



**HAMILTON &
DISTRICT
HOME
BUILDERS
ASSOCIATION**

A member of the Canadian
Home Builders' Association

47 Grant Avenue Hamilton, Ontario L8N 2X4 Tel. 527-2412

February 9, 1987

The Honorable Bernard Grandmaitre
Minister of Municipal Affairs
777 Bay St., 17th. Floor
Toronto, Ontario
M5G 2E5

Dear Sir:

RE: CITY OF HAMILTON CASH-IN-LIEU OF PARKLAND BY-LAW

The Hamilton District Home Builders' Association would appreciate your comments regarding the City of Hamilton utilizing Section 41, of the Planning Act, 1983 to charge additional cash-in-lieu of parkland for plans of subdivision.

By-Law 84-252 allows for the City to collect cash-in-lieu of parkland based on the value of the lands on the day before the day of draft plan approval pursuant to Section 50 of the Planning Act, 1983. The by-law then goes on to require a further cash-in-lieu payment based on the value of the lands on the day before the issuance of Building Permit pursuant to Section 41 of the Planning Act, 1983. Please refer to the enclosed letter from the Hamilton Real Estate Department.

This two installment approach requires the Section 50 monies prior to subdivision registration and the Section 41 monies prior to the issuance of the building permit.

The Builders' Association is concerned that this is an abuse of process resulting in a significant cost being added to the cost of housing.

We respectfully request your review of this matter and look forward to your early response.

Should you require any further information or assistance, please contact our office.

Yours truly,
HAMILTON & DISTRICT HOME BUILDERS' ASSOCIATION

Per:

George R. Barclay
Chairman, Development Council

GB/md



MAR. 27 1987

GEORGE

Office of the
Minister

Ministry of
Municipal
Affairs

Ministère des
Affaires
municipales

777 Bay Street
Toronto, Ontario
M5G 2E5

Bureau du
ministre

March 12, 1987

COPY

Mr. George Barclay
Chairman
Development Council
Hamilton District Home
Builders Association
1112 Rymal Road East
Hannon P.O. Box 188
Hamilton, Ontario
LOR 1P0

Dear Mr. Barclay:

Re: Cash-in-Lieu of Parkland
City of Hamilton By-law 84-252

Thank you for your letter of February 9, 1987 regarding
by-law 84-252 in the City of Hamilton.

I appreciate receiving the views of your Association
relating to the use of the cash-in-lieu provisions in the
City of Hamilton. These cash-in-lieu provisions were
enacted in 1983 when the new Planning Act was introduced.
Since then, this Ministry continually monitors its
effectiveness and comments such as yours will assist in
our review.

I have instructed my staff to review the use of these
provisions in the Province and report back to me. Once
this is done, I would be pleased to comment further to
you on this issue.

Again, thank you for bringing your views to my attention.

Yours sincerely,

Bernard Grandmaître
Minister

REAL ESTATE DEPARTMENT

1986 September 23

Hamilton and District Home Builders Association
147 Grant Street
Hamilton, Ontario
L8N 2X4

Gentlemen:

Re: 5% Cash Payment in-lieu-of Dedication of Land

It would be appreciated if you would advise your members that the enactment of By-law 84-252 by Hamilton City Council enables the calculation and collection of the 5% cash payment in-lieu-of parkland dedication to be made in accordance with the provisions of Section 41 of the Planning Act for all plans of subdivision registered after this date.

The practical result of this change means that the 5% cash-in-lieu payment will not be fully prepaid on building lots in future plans of subdivision. Instead, the payments will be collected in two installments: firstly an amount equal to the value of the land as of the "day before the day of draft plan approval", (which might be equated to the raw acreage value), will be collected as part of the Subdivision Agreement prior to registration; and secondly, an additional amount equal to the value of the land as of "the day before the day of the issuance of the building permit" less whatever amount was previously collected at registration will be collected at the building permit stage. The total of both payments will reflect 5% of the market value as of this latter date, which, in most instances will be that of a serviced and 'ready to go' building lot.

Continued

1986 September 23

Hamilton and District Home Builders Association

Page 2

Continued

~~While notice of this procedure will be incorporated into subsequent Subdivision Agreements, we feel it is important that your members and all those involved in the industry be made aware of this considerable departure from current practice.~~

Thank you for your attention in this matter.

Yours very truly,

RAB:dmu

D.J. Vyce
DIRECTOR OF REAL ESTATE

Wednesday, 1987 March 11
2:00 o'clock p.m.
Room 233, City Hall

The Planning and Development Committee met.

There were present: Alderman J. Smith, Chairman
Alderman D. Ross, Vice-Chairman
Mayor R. M. Morrow
Alderman D. Christopherson
Alderman Wm. McCulloch
Alderman B. Hinkley
Alderman S. Collins
Alderman T. Cooke
Alderman H. Merling

Also present: Alderman G. Copps
Mr. L. Sage, Chief Administrative Officer
Mr. V. Abraham, Director of Local Planning
Mr. D. Carson, Executive Assistant to the Mayor
Mrs. Nina Chapple, Architectural Historian
Ms. Anne Gillespie, Research Assistant
Mr. M. Watson, Assistant Director of Real Estate
Mr. J. Robinson, Co-ordinator, Housing Loans
Mr. K. Brenner, Environment Planning Engineer
Mr. T. Gill, Traffic Planning Engineer
Mr. R. Doucette, Building Department
Mr. P. Lampman, Chief Plan Examiner, Building
Department
Mr. R. Karl, Traffic Planning Engineer
Mr. D. Godley, Planning Department
Mrs. J. McNeely, Community Renewal Officer
Mr. J. Sacala, Planning Department
Mr. D. Vyce, Director of Real Estate
Mr. J. Schwarz, Regional Planning
Mr. J. Zipay, Division Head, Development and
Urban Design
Mr. V. Matus, Planning Department
Mr. B. Henley, L.A.C.A.C.
Mr. Roscoe & Associates, S. M. Roscoe Inc.
Mrs. S. K. Reeder, Acting Secretary

It was moved by Alderman Collins, seconded by the Mayor and carried to move in camera to discuss several confidential matters pertaining to negotiations.

The Committee then moved into open session.

A. Council Member Appointees to Business Improvement Areas Board of Management

The Committee was in receipt of correspondence from Alderman B. Hinkley dated 1987 February 18 respecting Council Members appointees to Business Improvement Areas Board of Management.

Following discussion on this matter, it was moved by Alderman Hinkley, seconded by Alderman McCulloch and carried:

"That a resolution be forwarded to the Minister of Municipal Affairs with a copy to the Ontario Association of Municipalities requesting an amendment to the Ontario Municipal Act, Section 217 on appointments to Business Improvement Associations Boards of Management."

Council Member
Appointees to
Business Improvement
Areas Board of
Management

Planning and Development Committee

Wednesday, 1987 March 11

Alderman Hinkley advised the Committee that he would write this resolution and have it placed before the next meeting of the Committee for approval.

Demolition
Applications

1. Building Department - Demolition Applications

It was moved by Alderman Hinkley, seconded by Alderman Cooke and carried to approve the following:

That the Building Commissioner be authorized to issue demolition permits for the demolition of residential buildings as outlined below:

- (a) 154 Ward Avenue
- (b) 49 Rymal Road East

2. Community Development Department

Downtown
Promenade
Business
Improvement
Area (B.I.A.)
1987 Revised
Schedule of
Payments

(a) Downtown Promenade Business Improvement Area (B.I.A.); 1987 Revised Schedule of Payments

The Committee was in receipt of a report from the Director of Community Development dated 1987 February 26 respecting the Downtown Promenade Business Improvement Area (B.I.A.); 1987 Revised Schedule of Payments and the Committee then approved the following:

That the Downtown Promenade Business Improvement Area (B.I.A.) 1987 Revised Schedule of Payments, attached hereto as APPENDIX "K", be approved.

Ontario Home
Renewal Programme
(O.H.R.P.)

(b) Ontario Home Renewal Programme (O.H.R.P.)

The Committee was in receipt of a report from the Director of Community Development dated 1987 March 2 respecting the Ontario Home Renewal Programme (O.H.R.P.) and the following recommendation was approved by the Committee:

That the following Ontario Home Renewal Programme applications be approved and that the Department of Community Development be authorized to process grants/loans in the amount not to exceed \$7 500.

- (a) H. Shaw
139 Barons Avenue North
- (b) S. Grudzien
70 Cope Street
- (c) A. Chandler
1674 King Street East
- (d) J. Wright
80 Cline Avenue North
- (e) E. Bjegovich
181 Rosslyn Avenue North
- (f) S. Verticchio
267 Dunsmure Road

Note:

The actual amount of grant or loan to be determined by inspection of the property under the Property Standards By-law 74-74 and pursuant to Regulation 506 (R.R.O. 1980) under The Housing Development Act for the Ontario Home Renewal Programme.

(c) Downtown Hamilton Action Plan Phase V, Design Concept

Downtown Hamilton
Action Plan Phase V,
Design Concept

At this point in the meeting a presentation was made by representatives of S. M. Roscoe and Project Planning Limited.

Following the presentation to the Committee by Roscoe and Associates, Mr. D. M. Robins, Chairman of the Jamesville Business Improvement Area addressed the Committee and indicated to them that the merchants in the area are concerned that the traffic patterns change from the present through traffic flow to local traffic only. S. M. Roscoe Inc. distributed a proposed schedule of events for approval of the James Street North streetscape for the Committee's discussion and information. This material was received by the Committee.

Following discussion on this presentation, the Committee approved the following recommendation as contained in a report from the Director of Community Development dated 1987 March 11:

- (i) That the Downtown Hamilton Action Plan, Phase V, Design Concept I, as presented by S. M. Roscoe and Project Planning Limited be received and,
- (ii) That the Planning and Development Committee hold a public meeting to received comments on the Downtown Hamilton Action Plan, Phase V, Design Concept I prior to submitting a recommendation to City Council.
- (iii) That the Consultants be authorized to proceed with detailed design concepts of Concept I and review these with the appropriate City and Regional Departments and Utilities.

It was noted in the Report of the Director of Community Development that construction of the above-noted project, originally scheduled for 1987 will now begin in 1988.

PUBLIC MEETING - 3:00 O'CLOCK P.M.

6. (a) Proposed Plan for the Kennedy East Neighbourhood (P5-2-83) - Public Meeting - 3:00 o'clock p.m.

Proposed Plan for
the Kennedy East
Neighbourhood

Mr. David Godley of the Planning Department presented several plans for the Kennedy East Neighbourhood. He also outlined the concerns of the neighbours and views of the land owner with respect to the proposed plan for these lands.

Mr. P. Alessi, 79 Malton Drive spoke on behalf of the residents in the Malton, Christopher, Kennedy and Alderson Road areas. Mr. Alessi indicated to the Committee that neighbours want all of the roads to end in cul-de-sacs not just Kennedy and Alderson as proposed in the preferred option plan being suggested. He added that the neighbours prefer the alternative plan as submitted to the Committee.

Mr. Vulker, acting on behalf of Mr. & Mrs. Cooper, owners of the lands being developed at 187 Rymal Road West addressed the Committee on the Cooper's concerns. He submitted a letter to the Committee respecting their comments and summarized in adding that the Cooper's wish the preferred option plan for the lands.

The Committee received a letter from Ms. Evelyn Hudecki, 30 Christopher Drive requesting that the Committee choose the alternate plan for the Kennedy East Neighbourhood.

A petition and letter sent to Mr. Geoff Scott, 241 King Street West, Dundas was given to Alderman Ross and forwarded to the Secretary. This petition and letter originated from Mr. & Mrs. K. Nelson, 58 Christopher Drive and is dated 1987 February 12.

Following considerable discussion on this matter, it was moved by Alderman Ross, seconded by Alderman Merling and carried to approved the following recommendation as contained in a report from the Planning and Development Department dated 1987 February 16:

- (a) That the proposed Kennedy East Neighbourhood Plan (Map 2, Alternative) and policies (Appendix A) be adopted.
- (b) That the deletion of the proposed extension of West 5th street from the City's Official Plan be initiated as part of the Annual Official Plan Update.
- (c) That City Council request Regional Council to delete the proposed extension of West 5th Street from the Hamilton-Wentworth Official Plan.

ZA87-08 -
187 Rymal
Road West

- (b) Zoning Application ZA-87-08, T. Joseph Cooper and Marjorie J. Cooper, owners, for a change in zoning from "AA" to "C" for a property at 187 Rymal Road West; Kennedy East Neighbourhood Public Meeting - 3:00 p.m.

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 5 respecting the above noted matter.

The notices of circularization were reported as follows:

90 circulars sent out - 12 in favour - 7 opposed.

Mr. Harley Alison, 172 Rymal Road West spoke out in opposition to the proposed zoning application. He indicated that he was opposed in principle to the whole concept of re-zoning the area. He further added that he did not want a stop light being placed on the new roadway. The Committee indicated to Mr. Alison that the proposal before them was for a change in zoning not the entire proposed plan as discussed in the item prior to Zoning Application 87-08.

Following discussion on this matter, the Committee then approved the following recommendation as contained in a report by the Planning and Development Department dated 1987 March 5:

- (a) That Zoning Application 87-08, T. Joseph Cooper and Majorie J. Cooper, owners, requesting a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District for property at No. 187 Rymal Road West, as shown on the attached map marked as APPENDIX "B" be denied as submitted
- (b) That approval be given to an amended Zoning Application 87-08, T. Joseph Cooper and Majorie A. Cooper, owners, to establish a change in zoning from "AA" (Agricultural) District to "A" (Conservation, Open Space, Park and Recreation) District (Block 1); "C" (Urban Protected Residential, etc.) District (Block 2); "B" (Suburban Agriculture Residential, etc.) District (Block 3) and "B-2" (Suburban Residential) District, modified, (Blocks 4 and 5), for property at No. 187 Rymal Road West as shown on the attached map marked as APPENDIX "C" on the following basis:
 - i) That the lands described as Block 1 be rezoned from "AA" (Agricultural) District to "A" (Conservation Open Space, Park and Recreation) District;
 - ii) That the lands described as Block 2 be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
 - iii) That the lands described as Block 3 be rezoned from "AA" (Agricultural) District to "B" (Suburban Agriculture Residential, etc.) District;
 - iv) That the lands described as Blocks 4 and 5 be rezoned from "AA" (Agricultural) District to "B-2" (Suburban Residential) District;
 - v) That the "B-2" (Suburban Residential) District regulations as contained in Section 8B of Zoning By-law No. 6593 applicable to the lands described as Blocks 4 and 5 be modified to include the following variance as a special requirement:
 - (a) Notwithstanding Section 8B (4) of By-law No. 6593 each single family dwelling shall have a minimum lot area of 464.5m² (5,000 sq. ft.)
 - vi) That the amending By-law be added to Section 19B of Zoning By-law No. 6593, as Schedule S-1014, and that the subject lands on (Blocks 4 & 5) Zoning District Map W-9E; be notated S-1014.
 - vii) That the City Solicitor be directed to prepare a by-law to amend Zoning By-law No. 6593 and Zoning District Map W-9E;
 - viii) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE:

The purpose of the By-law is to provide for the following changes in zoning for property located at No. 187 Rymal Road West as shown on the attached map.

- Block - 1 - Change from "AA" (Agricultural) District to "A" (Conservation, Open Space, Park and Recreation) District;
- Block - 2 - Change from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
- Block - 3 - Change from "AA" (Agricultural) District to "B" (Suburban Agricultural Residential, etc.) District.
- Blocks 4 & 5 - Change from "AA" (Agricultural) District to "B-2" (Suburban Residential) District.

In addition, the By-law provides for the following variance as a special requirement:

To require a minimum lot area of 464.5 m² for each single family dwelling lot within the "B-2" (Suburban Residential) District, whereas a minimum lot area of 580.0 m² would be required.

The effect of the By-law is to permit development of the subject lands through a draft plan of subdivision for a single family dwelling and for Open Space purposes.

ZA87-06 -
460 Upper
Kenilworth
Avenue

7. Zoning Application ZA-87-06, Marko Curkovic, owner, for a modification to the "D" District regulations for property at No. 460 Upper Kenilworth Avenue; Huntington Neighbourhood
Public Meeting - 3:00 p.m.

The Committee was in receipt of a report from the Planning and Development Department dated 1987 February 19 respecting the above noted matter.

Results of the circularization were reported as follows:

148 notices mailed out - 9 in favour - 7 opposed

The Committee approved the following recommendation:

That approval be given to Zoning Application 87-06, Marko Curkovic, owner, requesting a modification to the established "D" (Urban Protected Residential One and Two Family Dwellings, etc.) District for property at No. 460 Upper Kenilworth Avenue as shown on the attached map marked as APPENDIX "D" on the following basis:

- i) That the "D" (Urban Protected Residential One and Two-Family Dwellings, etc.) District regulations as contained in Section 10 of Zoning By-law No. 6593 applicable to the subject lands be modified to include the following variance as a special requirement:

- a) Notwithstanding Section 10(1) of By-law No. 6593 a maximum of four dwelling units shall be permitted within the existing building;
- ii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1015 and that the subject land on Zoning District Map E-58 be notated S-1015;
- iii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-58.
- iv) That the proposed change in zoning is in conformity with the City of Hamilton Official Plan.

NOTE:

The purpose of the By-law is to provide for a modification to the established "D" (Urban Protected Residential, etc.) District regulations applicable to property located at No. 460 Upper Kenilworth Avenue, as shown on the attached map marked as APPENDIX "D".

The effect of the By-law is to permit a maximum of 4 dwelling units within the existing building.

8. Zoning Application ZA-86-58, George Sinclair Construction Inc., owner, for a change in zoning from "C" to "G-3", for property at the south-east corner of Orphir Road and Pottruff Road South; Corman Neighbourhood.
Public Meeting - 3:00 p.m.

ZA86-58 -
South-east corner
of Orphir Road
and Pottruff Road
South

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 2 respecting a request for a change in zoning from "C" (Urban Protected Residential, etc.) District to "G-3", (Public Parking Lots) District for property at the south-east corner of Orphir Road and Pottruff Road South. The purpose of the application is to permit the use of the subject lands for parking purposes in conjunction with a commercial/medical office complex fronting on King Street East.

The results of the circularization were as follows:

146 notices mailed out - 6 in favour - 12 opposed

Mr. Steves, 10 Orphir Road addressed the Committee on his concerns. He advised the Committee that he had sent in a petition signed by 40 of the area residents opposing the request for re-zoning. This petition was included in the Committee's agenda material.

Mr. Pate, 1 Orphir Road spoke to the Committee indicating that he was opposed to the property across from him being turned into a parking lot. He cited the loss of privacy and the devaluation of this property in his opposition.

Mr. Matijevic, 7 Orphir Road addressed the Committee on his concerns that the change in zoning would allow for increased noise in the area.

General concerns was expressed by those in opposition that a change to a commercial zoning would allow any kind of building not just a medical office complex.

Alderman Collins addressed the Committee and indicated that she had been surprised that no neighbourhood plan exists for this area. Mr. Abraham indicated to the Committee that this area has had very little activity in recent years and is considered a stable area. He added that when the freeway comes through, a plan can be done.

Following discussion on this matter, it was moved by Alderman Collins, seconded by Alderman Merling and carried to deny the request for a change in zoning as follows:

That Zoning Application 86-58, George Sinclair Construction Inc., owner, requesting a change in zoning from "C" (Urban Protected Residential, etc.) District to "G-3" (Public Parking Lots) District, to permit the use of the subject lands for parking purposes in conjunction with a commercial/medical office complex (fronting on King Street East), for property located at the south-east corner of Orphir Road and Pottruff Road South, as shown on the attached map marked APPENDIX "E" be denied for the following reason:

- (a) it represents an intrusion into the established residential area to the north.

ZA87-07 -
1002 Upper Gage
Avenue

- 9. Zoning Application ZA-87-07, Robert Leggat, owner for a change in zoning from "AA" to "DE-3", for property located at No. 1002 Upper Gage Avenue; Lawfield Neighbourhood.
Public Meeting - 3:15 p.m.

The Committee was in receipt of a report from the Planning and Development Department dated 1987 February 24 respecting a request for a change in zoning from "AA" (Agricultural) District to "DE-3" (Multiple Dwellings) District for a property located at 1002 Upper Gage Avenue.

The purpose of the application is to permit development of the subject lands for townhouses or low-rise apartments.

The results of the circularization were as follows:

247 notices were sent out - 11 in favour - 9 opposed

It was moved by Alderman McCulloch, seconded by Alderman Ross and carried to adopt the following recommendation:

That approval be given to Zoning Application 87-07, Robert Leggat, owner, for a change in zoning from "AA" (Agricultural) District to "DE-3" (Multiple Dwellings) District for property located at No. 1002 Upper Gage Avenue, as shown on the attached map marked as APPENDIX "F" on the following basis:

- i) That the subject lands be rezoned from "AA" (Agricultural) District to "DE-3" (Multiple Dwellings) District;
- ii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-38A and E-38B; and,
- iii) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

NOTE:

The purpose of the By-law is to provide for a change in zoning for property located at No. 1002 Upper Gage Avenue from "AA" (Agricultural) District to "DE-3" (Multiple Dwellings) District as shown on the attached map marked as APPENDIX "F".

The effect of the By-law is to permit development of the subject lands for either townhouses or low rise apartments.

Note: Alderman Merling opposed

10. Zoning Application ZA-87-10, Eileen Jaremy, owner, for a modification to the "C" District regulations for property at No. 101 Beechwood Avenue; Stipeley Neighbourhood.
Public Meeting - 3:15 p.m.

ZA87-10 -
101 Beechwood
Avenue

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 3 respecting a request for a modification for the established "C" (Urban Protected Residential, etc.) District provisions for a property located at 101 Beechwood Avenue.

The purpose of the proposed modification is to permit a hairdressing salon to be operated by the applicant as a home occupation.

The results of this circularization were as follows:

306 notices sent out - 22 in favour - 10 opposed

The Committee approved the following recommendation:

That approval be given to Zoning Application 87-10, Eileen Jaremy, owner, requesting a modification to the "C" (Urban Protected Residential, etc.) District provisions, to permit a hairdressing salon to be operated by the applicant as a home occupation, for the property located at 101 Beechwood Avenue, as shown on the attached map marked as APPENDIX "G", on the following basis:

- i) That the "C" (Urban Protected Residential, etc.) District regulations contained in Section 9 of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements:
 - a) Notwithstanding paragraphs (f) and (h) of Section 2.(2).H. (iii), hairdressing shall be permitted as a home occupation on the following basis:
 - (1) it is carried on by not more than one hairdresser having a principal and permanent place of residence on the premises; and,
 - (2) there is not more than one comb-out centre and one styling sink.
- ii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1016, and that the subject land as Zoning District Map E-32 be notated as S-1016;
- iii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-32; and,

- iv) That the proposed change in zoning is in conformity with the City of Hamilton Official Plan.

NOTE:

The purpose of this By-law is to provide for a modification to the existing "C" (Urban Protected Residential, etc.) District provisions applicable to the property located at 101 Beechwood Avenue, as shown on the attached map.

The effect of the By-law is to permit a hairdressing salon for one hairdresser only to be operated from the residence as a home occupation.

ZA86-105 - west side of Upper Paradise Road, north of the proposed Mountain Freeway

11. Zoning Application ZA-86-105, G. Bertleman, owner, for a change in zoning from "AA" to "RT-20" for property on the west side of Upper Paradise Road, north of the proposed Mountain Freeway; Fessenden Neighbourhood.
Public Meeting - 3:15 p.m.

The results of the circularization were as follows:

167 notices were mailed out - 6 in favour - 17 opposed

Mr. Bob Webster, 660 Upper Paradise Road appeared before the Committee expressing concern that the plan as submitted does not allow access into his driveway.

The Committee took this into consideration with an amendment to the recommendation.

It was then moved by Alderman Ross, seconded by Alderman McCulloch and carried to adopt the following recommendation:

- (1) That approval be given to Zoning Application 86-105, G. Bertelmann, owner, requesting a change in zoning from "AA" (Agricultural) District to "RT-20" (Townhouse and Maisonette) District, for property located on the west side of Upper Paradise Road, north of the proposed Mountain Freeway, as shown on the attached map marked as APPENDIX "H", as follows:
- i) That the subject lands be rezoned from "AA" (Agricultural) District to "RT-20" (Townhouse and Maisonette) District;
 - ii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map W-37A;
 - iii) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area; and,
 - iv) That the Fessenden Neighbourhood Plan be amended by redesignating the subject lands from "Low Density Apartments" to an "Attached Housing" designation.
- (2) That approval of the subject zoning By-law be withheld until such time as the applicant submits a survey plan to allow access into the driveway for the property located at 660 Upper Paradise Road.

NOTE:

The purpose of the By-law is to provide for a change in zoning from "AA" (Agricultural) District to "RT-20" (Townhouse and Maisonette) District for vacant lands located on the west side of Upper Paradise Road, north of the proposed Mountain Freeway, as shown on the attached map marked as APPENDIX "H".

The effect of the By-law is to use the subject lands as a buffer strip (berm) from the proposed townhouse development adjacent to the north.

12. Subdivision Application SA-86-29 and Zoning Application ZA-86-111, Cochren Construction Co. Limited, owner, for a change in zoning from "AA" to "C" for lands on the west side of the proposed extension of Greenhill Avenue, north of the T.H.&B. Railway line; Gershorne Neighbourhood.
Public Meeting - 3:15 p.m.

SA86-29 and
ZA86-111 -
West Side of the
Proposed Extension
of Greenhill
Avenue, north of
the T.H.&B.
Railway Line

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 5 respecting the following:

1. Application to the Region for approval of a draft plan of subdivision, Regional File No. 25T-86-048, City of Hamilton File No. SA-86-29 to establish 92 lots for single family dwellings.
2. Application to the City of Hamilton for approval of a re-zoning, File No. ZA-86-111 for a change in zoning from "AA" (Agricultural District) to "C" (Urban Protected Residential, etc.) District.

The Committee approved the following subdivision application:

- (a) That approval be given to Application SA-86-29, Cochren Construction Co., Limited, owner to establish a draft plan of subdivision on the west side of future Greenhill Avenue extension, north of the Toronto, Hamilton and Buffalo Railway, subject to the following conditions:
 - 1) That the approval apply to the plan prepared by Parker Consultants, dated December 1, 1986, revised to show 10 m radius rounding at Lots 68 and 81, a 9 m sewer easement between Lots 57 and 58 and two blocks (93 and 94) for 0.3 m reserves abutting the west limit of future Greenhill Avenue extensions.
 - 2) That the final plan be approved only after, either, the one-way exit from Highway 20 (Centennial Parkway) has been established by registration of a plan of subdivision under subdivision application SA-85-22 (Nash Orchard heights South), or Greenhill Avenue has been constructed in full to join the north and south sections of said road, and that appropriate road improvements are completed at the intersection of Greenhill Avenue and King Street East as deemed necessary by the City of Hamilton and the Region of Hamilton.
 - 3) That the owner acquire sufficient land to establish Greenhill Avenue to the south side of street "B", should the plan be developed prior to the lands to the east.

- 4) That the road allowances be dedicated as public highways on the final plan.
 - 5) That the streets be named to the satisfaction of the City of Hamilton and the Regional Municipality of Hamilton-Wentworth.
 - 6) That the final plan conform with the Zoning By-law approved under The Planning Act.
 - 7) That the owner make a cash payment in lieu of the conveyance of 5% of the land included in the plan to the City of Hamilton for park purposes.
 - 8) That such easements as may be required for utility or drainage purposes be granted to the appropriate authority.
 - 9) That the owner provide the City of Hamilton with a certified list showing the net area and width of each lot in the final plan.
 - 10) That any dead-ends of the road allowances created by the plan be terminated in 0.3 m reserves to be conveyed to the City of Hamilton and held by the City until required for the future extension of the road allowances or development of abutting lands.
 - 11) That the owner convey Block 93 and 94 (0.3 m reserves) to the City of Hamilton.
 - 12) That the owner agree in writing to satisfy all the requirements, financial and otherwise, of the City of Hamilton.
- (b) That a subdivision agreement be entered into by the Corporation of the City of Hamilton and the owner to provide for compliance with the conditions of approval established by the Hamilton-Wentworth Region with respect to this application (SA-86-29), Cochren Construction Co., Limited, owners, proposed draft plan of subdivision and that the City execute the agreement when the said conditions have been met and the City's share of the cost of installing municipal services has been approved by City Council.

The Committee dealt with Zoning Application 86-111 and the report of the circularization was as follows:

353 notices sent out - 6 in favour - 11 - opposed

The Committee then approved the following recommendation:

- (a) That approval be given to Zoning Application ZA-86-111, Cochren Construction Co., Limited, owner, requesting a change in zoning for lands on the west side of the proposed extension of Greenhill Avenue, north of the T.H. & B. Railway tracks, as shown on the attached map marked as APPENDIX "I", on the following basis:
 - i) That the lands be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;

- ii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District E-107;
 - iii) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.
 - iv) That the Gershorne Neighbourhood Plan be amended by redesignating the lands on the west side of the proposed extension of Greenhill Avenue from "Low Density Apartments" and "Attached Housing" to a "Single and Double" residential land use designation, and by amending the proposed road pattern where required.
- (b) That approval of the subject zoning By-law be withheld until such time that the applicant submits a survey plan showing the "top of bank" as determined by a survey line established in the field to the satisfaction of the Hamilton Region Conservation Authority in order to determine the location of the Zoning District boundary line. Should any of the subject lands fall below the "top of bank" line as established in the field by the surveyor, these lands should be rezoned accordingly from "AA" (Agricultural) District to an "A" (Conservation, Open Space, Park and Recreation) District.

NOTE:

The purpose of the By-law is to provide for a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District for property located on the west side of the proposed extension of Greenhill Avenue, north of the T.H. & B. Railway Tracks as shown on the attached map marked as APPENDIX "I".

The effect of the By-law is to permit development of the subject lands through a draft plan of subdivision for single-family detached dwellings.

13. Request by owner Galwan Canada Limited, for an amendment to Condition A of Draft Approved Plan of Subdivision (SA-85-03)

Alderman Ross declared a conflict of interest in this matter and left the meeting.

The Committee was in receipt of a report from the Planning and Development Department dated 1987 February 5 respecting a request by the owner to amend Condition A of the Draft Approved Plan of Subdivision by Suncor Inc., City of Hamilton File No. SA-85-03, City of Hamilton Regional File No. 25T-85-007.

The Committee then approved the following:

That approval be given to Application SA-85-03, Galwan Canada Limited, owner, to change the draft approved plan as recommended for approval by City Council and as approved by Regional Council at its meeting held on August 20, 1985 by deleting conditions a) to g) inclusive and replacing the same by the following conditions:

- a) That this approval apply to the plan prepared by May, Pirie and Associates dated February 15, 1985 to show 14 lots and a walkway as Block 15.

Draft Approved
Plan of
Subdivision
-Galwan Canada
Limited

Planning and Development Committee

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- b) That the walkway block be dedicated as public on the final plan and align with Block "A", Registered Plan No. M-123, Queensway Manor - Phase 2.
- c) That the final plan conform with the zoning by-law approved under the Planning Act.
- d) That the owner make a cash payment in lieu of the conveyance of 5% of the land included in the plan to the City for park purposes.
- e) That such easements as may be required for utility or drainage purposes be granted to the appropriate authority.
- f) That the owner provide the City of Hamilton with a certified list showing the net area and width of each lot in the final plan.
- g) That the owner agree in writing to satisfy all the requirements, financial and otherwise, of the City of Hamilton

Site Plan Control
Applications

14. Site Plan Control Application Approval (for information)

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 4 respecting Site Plan Control Applications for the following:

- (a) DA-86-98, Texaco Canada Inc., owners, land at 2579 King Street East.
- (b) DA-86-112, Marlene and David Yacoob, owners, land at 193-199 Main Street West.

The Committee received this material for information.

Site Plan Control
Application
DA86-111 -
484 James Street
North

15. Site Plan Control Application DA-86-111, by Forest James Investment Limited, prospective owner of lands at 484 James Street North; North End East Neighbourhood.

The Committee was in receipt of a report from the Planning and Development Department dated 1987 February 17 respecting Site Plan Control Application DA-86-111 by Forest James Investment Limited, prospective owner of lands at 484 James Street North, for a 3 storey, 12 unit condominium apartment building.

General discussion ensued on this application, and it was agreed that approval of the application would be subject to the front of the building having protective devices satisfactory to staff installed.

It was then moved by Alderman McCulloch, seconded by Alderman Merling and carried to approved the following recommendation:

That Site Plan Control Application DA-86-111 by Forest James Investment Limited, prospective owner of lands at 484 James Street North for a 12 unit apartment building be tabled in order for the applicant to re-design the project to provide a structure adjacent to James Street North.

Note: Alderman Christopherson opposed.

16. (a) Site Plan Control Application DA-87-13, by the City of Hamilton, owner of lands at the north-east corner of York Boulevard and MacNab Street North; Central Neighbourhood.

Site Plan Control
Application
DA87-13 -
North-east corner
of York Blvd.
and MacNab
Street North

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 10 respecting approval of Site Plan Control Application DA-87-13 by the Corporation of the City of Hamilton, owner of lands at the north-east corner of York Boulevard and MacNab Street North for a seven (7) level parking structure.

The report indicates that plans have been submitted for a seven (7) level parking structure to be located at the north-east corner of York Boulevard and MacNab Street North. Access to the parking will be from York Boulevard with a secondary entrance adjacent to the exist driveways to Vine Street. A total of 816 vehicle spaces will be provided. A future bridge connection is proposed from the parking structure to the proposed Eatons and retail development occurring on the south side of York Boulevard.

The Committee approved the following recommendation:

That approval be given to Site Plan Control Application DA-87-13 by the Corporation of the City of Hamilton, owner of the lands at the north-east corner of York Boulevard and MacNab Street North for a seven (7) level parking structure subject to the following:

- (a) Modifications to the plans related to dimensions, notes and exit driveway details as marked in red on the plans.
 - (b) Modifications to the landscape plan to incorporate pedestrian seating areas particularly along MacNab Street South and the existing bus stop; and
 - (c) Modifications to the southerly and easterly elevations in consideration of the comments of the Urban Design Committee as attached.
 - (d) Finalization of the closure of the alley from Vine Street prior to issuance of the building permit.
- (b) Report from the Urban Design Committee on Site Plan Control Application DA-87-13 (P5-8-4-7)

Report from the
Urban Design
Committee
on Site Plan
Control Application
DA-87-13

The Committee was in receipt of a report from the Urban Design Committee dated 1987 March 4 respecting the proposed parking garage - York Boulevard.

It was moved by Alderman Ross, seconded by Alderman Merling and carried:

"That the design of the southern facade referred to the glassed in elevator treatment."

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It was moved by the Mayor, seconded by Alderman McCulloch and carried:

"That the eastern facade be built as an open design similar to the western elevation and the voids blocked in as necessary if and when adjoining buildings are constructed. If the building code does not permit this construction, then sandblasted concrete spandrels similar to those used on the remainder of the building, be used on the eastern facade."

It was moved by Alderman Ross, seconded by Alderman Merling and carried:

"That seating be provided as part of the landscaping for bus users."

It was further agreed that the Chief Administrative Officer be directed to deal with these recommendations as expeditiously as possible since construction of the parking garage is hinging on the construction of the new Eatons Centre.

CAPIC - Land
Beside Proposed
Parking Garage

(c) CAPIC - land beside proposed Parking Garage.

The Committee was in receipt of a report from the Central Area Plan Implementation Committee dated 1987 February 9 respecting a design brief for the City owned land east of the proposed parking garage on York Boulevard.

The Committee then approved the following recommendation:

- (a) That the Planning and Development Department in conjunction with the Urban Design Committee prepare a design brief for the City owned land east of the proposed parking garage on York Boulevard to assure suitable development.
- (b) That the design brief be prepared as soon as possible and in any case within 90 days, and
- (c) That the Executive Committee be informed about the design.

Demolition
Application -
613 Stone Church
Road East

1. Building Department - Demolition Applications

- (a) 613 Stone Church Road East

LACAC -
Designation -
613 Stone Church
Road East

4. Local Architectural Conservation Advisory Committee

- (a) Designations
 - (i) 613 Stone Church Road East

The Committee considered a request for a demolition permit for the property located at 613 Stone Church Road East.

The Committee was in receipt of a report from the Building Commissioner dated 1987 March 4 respecting the demolition of the above noted property. The report indicated that this application was tabled on 1987 February 25 pending comments from L.A.C.A.C.

The Committee was also in receipt of a report from L.A.C.A.C. dated 1987 March 5 requesting that 613 Stonechurch Road be designated.

Mrs. Nina Chapple, Architectural Historian for L.A.C.A.C. presented reasons for designation on this property.

Mr. Victor Kozle, Jr., part owner of the property appeared before the Committee in this matter and indicated that he and his father would be willing to retain the building if a purchaser for the land was willing to use it. He advised that the building has been vacant for numerous years.

It was moved by Alderman McCulloch, seconded by Alderman Christopherson that this item be tabled for two weeks. Motion was lost.

It was moved by Alderman Ross, seconded by Alderman McCulloch and carried:

- (a) That approval not be granted to the recommendation of LACAC to the "Intent to Designate" the property at 613 Stone Church Road East as a structure of historic and architectural significance pursuant to the provisions of the Ontario Heritage Act, 1983.
- (b) That Section .33(b) of the Planning Act be applied to the listed building at 613 Stone Church Road East to require a building permit to be issued for the new building prior to the issuance of a demolition permit.
- (c) That Section 33(7) of the Planning Act be applied to the listed building at 613 Stone Church Road East to require the new building to be substantially complete in 2 years as a condition of issuance of the demolition permit.

NOTE:

Sections 33(2) of The Planning Act, 1983, provides that a municipality may by by-law designate any area within the municipality wherein a by-law prescribing standards of maintenance and occupancy is in force as an area of demolition control.

Property Standards By-law 74-74 prescribing standards of maintenance and occupancy was enacted by City Council of April 30, 1974, and is in force in the City of Hamilton. By-law No. 74-290 - To Establish Demolition Control provides that the area comprising the City of Hamilton is designated an area of demolition control.

By applying Section 33(b) of the Planning Act, no residential property may be demolished in whole or in part, in the demolition control area, until plans for the proposed development are approved and a permit issued by City Council.

By applying Section 33(7) of the Planning Act a demolition permit may be issued on condition that the new building be substantially complete within two years or more as specified.

These provisions are included in The Planning Act in order to give Council some control over the premature and unnecessary demolition of sound housing stock.

Extension of
Conditions
Contained in the
City Sale to
David N. Blanchard
and Gary D.
Stapleton
(26 Keefer Court)

3. Real Estate Department

- (a) Extension of Conditions contained in the City sale to David N. Blanchard and Gary D. Stapleton (26 Keefer Court).

The Committee was in receipt of a report dated 1987 February 24 from the Director of Real Estate respecting the extension of conditions contained in the City sale to David N. Blanchard and Gary D. Stapleton (26 Keefer Court).

It was moved by the Mayor, seconded by Alderman Hinkley and carried to adopt the following resolution:

- (a) That the Purchasers, David N. Blanchard and Gary D. Stapleton be granted an extension to May 1st, 1987 in order to satisfy Subsections 1 and 2 of the Schedule "A" on the Offer to Purchase dated January 8, 1987, (26 Keefer Court).
- (b) That the closing date be extended to May 18, 1987.
- (c) That time is to remain of the essence and all other terms and conditions are to remain the same.

NOTE:

The Real Estate Department received a request from Messrs. David Blanchard and Gary Stapleton for an extension until May 1st, 1987 for the conditions in the Purchase Agreement with the City dated January 8, 1987 which states that the Purchaser has until February 28, 1987 to obtain a tenant for their proposed building.

The purchasers have nearly finalized a lease with a major Hamilton company; however, they will require additional time to obtain the necessary corporate approvals.

Sale - Part 10,
Plan 62R-6188 -
Parts 15 and 16,
Plan 62R-7820 -
36-42 Keefer
Court - Kenora
Industrial Park

- (b) Sale - Part 10, Plan 62R-6188 - Parts 15 and 16, Plan 62R-7820 36-42 Keefer Court - Kenora Industrial Park - Jim Pattison Industries Ltd., operating as Mountain City News.

The Committee was in receipt of a report from the Director of Real Estate dated 1987 March 4.

It was moved by the Mayor, seconded by Alderman Hinkley and carried to adopt the following resolution:

That an Offer to Purchase the lands of the Corporation of the City of Hamilton located at 36-42 Keefer Court duly executed on February 26, 1987 by the Purchasers, Jim Pattison Industries Ltd., operating as Mountain City News and scheduled for closing on July 24, 1987, be approved and completed.

NOTE:

The purchase price is \$116 000. A deposit cheque in the amount of \$11 600., is being held by the City Treasurer pending council approval.

It is understood and agreed that the Vendor, upon completion of this transaction will pay a 5% real estate commission to Chambers & Company Limited, whose agent, Mr. Bruce Law acted in this matter.

The property is composed of a parcel of land located on the southern limit of Keefer Court having a frontage of 67.890 metres by a depth of 59.496 metres/60.087 metres (195.196 feet and 197.13 feet) and containing an area of 6,270.8 m² (222.73 feet) (1.549 acres) subject to an easement in favour of the Regional Municipality of Hamilton-Wentworth over Part 15, Plan 62R-7820 and more particularly described as Parts 15 and 16, Plan 62R-7820 and Part 10, Plan 62R-6188 (36-42 Keefer Court).

This transaction includes special building covenants, agreements and restrictions which are set out on the pages attached hereto and marked APPENDIX "L".

- (c) Sale - Parts 11 and 12, Plan 62R-6932 - 43 Keefer Court, Kenora Industrial Park - Nation-Wide Mini Warehousing Ltd.

The Committee was in receipt of a report dated 1987 March 4 from the Director of Real Estate.

It was moved by the Mayor, seconded by Alderman Hinkley and carried to adopt the following resolution:

That an offer to Purchase the lands of The Corporation of the City of Hamilton having a frontage on the north side of Keefer Court of 140.11 feet duly executed on February 2, 1987, by the Purchasers, Nation-Wide Mini Warehousing Ltd., and scheduled for closing on June 25, 1987, be approved and completed.

NOTE:

The purchase price is \$44 500. A deposit cheque in the amount of \$2 000., is being held by the City Treasurer pending Council approval.

The property is composed of a parcel of land located on the northern limit of Keefer Court having a frontage of 42.704 (140.11 feet) metres by a depth of 68.61 metres/53.169 metres (225.04 feet/174.4 feet) and containing an area of 2 511.5 m² (.6206 acres) and more particularly described as Parts 11 and 12, Plan 62R-6932, (43 Keefer Court).

This transaction includes special building covenants, agreements and restrictions which are set out on the pages attached hereto and marked APPENDIX "M".

- (d) Release of Building Covenants - Norgate Holdings Ltd., (Jack Dunn) - 2751-2753 Barton Street East.

The Committee was in receipt of a report from the Director of Real Estate dated 1987 March 2.

It was moved by the Mayor, seconded by Alderman Hinkley and carried to adopt the following resolution:

Sale - Parts 11 and 12, Plan 62R-6932 - 43 Keefer Court

Release of Building Covenants - Norgate Holdings Ltd., (Jack Dunn)- 2751-2753 Barton Street East

That the City Solicitor be authorized to prepare the necessary documentation from the City of Hamilton to the owners of 2751-2753 Barton Street East to release the property from all covenants contained in Deed 288467 AB.

NOTE:

On March 27, 1973 the City completed the sale of the lands located at 2751-2753 Barton Street East subject to certain construction covenants that were contained in the Deed 288467 AB. These covenants required the purchaser to commence and complete the construction of buildings within a certain time frame. The buildings were constructed in accordance with the owners agreement with the City. The above lands and their buildings are now being sold by the present owner and the new purchaser would like the construction covenants removed.

Purchase by
the City - 384
Birch Avenue

(e) Purchase by the City - 384 Birch Avenue - David Henry Barclay

The Committee was in receipt of a report from the Director of Real Estate dated 1987 February 26.

It was moved by the Mayor, seconded by Alderman Hinkley to adopt the following resolution:

That an Option to Purchase the property at 384 Birch Avenue duly executed by David Henry Barclay on February 20, 1987 and scheduled for closing on or before May 20, 1987 be approved and completed.

NOTE:

This property is required in connection with the acquisition of lands in the Alpha Enclave (Plan 4) and has a frontage of 10.058 m (33 feet) by an irregular depth and comprising an area of 211.5 m² (2,277 square feet). The purchase price of \$12 500., in accordance with APPENDIX "N" is to be charged to account number 0280-35.

LACAC -
Designations -
255-265 James
Street North

4. Local Architectural Conservation Advisory Committee

(a) Designations

(ii) 255-265 James Street North

The Committee was in receipt of reasons for designation for the properties at 255-265 James Street North.

Mrs. Nina Chapple, Architectural Historian for L.A.C.A.C. addressed the Committee on the Reasons for Designation. She advised the Committee that the owners of the property, Mr. Pasquale DiDonato and Mike D. DiDonato are requesting designation of their building.

It was then moved by Alderman McCulloch, seconded by Alderman Christopherson and carried to adopt the following resolution:

That approval be given to the "Intent to Designate" the building as 255-265 James Street North as buildings of architectural and historical importance pursuant to the provisions of the Ontario Heritage Act, 1983, and that the City Solicitor be authorized and directed to take appropriate action to have this property designated pursuant to the provisions of the Ontario Heritage Act, 1983.

NOTE:

Attached as APPENDIX "J" is a copy of a report prepared for LACAC which contains the "Reasons for designation". The Committee wishes to advise that the property owner, Mike DiDonato, has requested the designation of these properties and designation is a pre-requisite for Municipal and Provincial Heritage Funding Programmes.

(b) Implementation of Zoning Policy recommendations in the St. Clair Heritage District Plan

The Committee was in receipt of a report from the Acting Secretary of L.A.C.A.C. dated 1987 March 5.

It was moved by Alderman Hinkley, seconded by Alderman Christopherson and carried to adopt the following recommendation:

That the Planning and Development Department proceed with the City initiated zoning by-law to restrict conversion in the St. Clair Heritage District to duplexes for the area shown on the attached plan.

(c) Membership Appointment - St. Clair Heritage District Advisory Committee

The Committee was in receipt of a report from the Acting Secretary of L.A.C.A.C. dated 1987 March 5.

It was moved by the Mayor, seconded by Alderman Hinkley and carried to adopt the following recommendation:

That Mr. John Parr be appointed to serve as a member of the St. Clair Heritage District Advisory Committee.

NOTE:

Mr. Parr is a resident of the St. Clair District.

5. Correspondence

(a) As-Of-Right Zoning

The Committee was in receipt of correspondence dated 1987 February 27 from the Regional Clerk respecting As-Of-Right Zoning.

The Committee agreed to table this matter.

Implementation of
Zoning Policy
Recommendations
in the St. Clair
Heritage District
Plan

Membership
Appointment -
St. Clair Heritage
District
Advisory Committee

As-of-Right-Zoning

Planning and Development Committee

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Business Land
Use Advisory
Board re:
Site Plan
Control

17. Business Land Use Advisory Board Site Plan Control - letter from the Chairman (P5-4-3-2-2)

The Committee was in receipt of a letter from the Chairman of the Business Land Use Advisory Board dated 1987 March 2 expressing concern regarding the application of Site Plan Control in the City.

The Board expressed concern that Site Plan Control was not applied to the entire City and was not as tightly controlled as in other municipalities. The Board further advised the Planning and Development Committee that:

"The Board supports the enhancement of the City's image through the application of Site Plan Control to all zoning districts (except those specifically excluded by the Planning Act and the upgrading of the zoning by-law where necessary)."

Following some discussion on this matter, the Committee agreed to direct staff to compile a report on the following matters:

- a preliminary evaluation of the work necessary to undertake and complete such a task including some indication and the merits and short comings of City-wide application of Site Plan Control and upgrading the zoning by-law to reflect more appropriate standards, and
- the implications of undertaking such a task on the 1987 work programme with particular attention to its impact on current projects underway, staff resources and timing.

Note: Mayor Morrow opposed.

Niagara
Escarpment
Amendments

18. Niagara Escarpment Amendments (P5-7-1)

The Committee was in receipt of a report from the Planning and Development Department dated 1987 February 13 respecting proposed amendment 22 to the Niagara Escarpment Plan.

It was moved by Alderman Hinkley, seconded by Alderman McCulloch and carried to adopt the following recommendation:

That the City Clerk notify the Clerk of the Regional Municipality of Hamilton-Wentworth that the City of Hamilton does not object to proposed Amendment 22 to the Niagara Escarpment Plan.

NOTE:

The proposed amendment would remove restrictions on the granting of severances to landowners whose lands have been subject to a previous severance by a public body.

Comment on
Ontario Hydro
Transformer
Station

19. Comment on Ontario Hydro Transformer Station (P6-3-2)

The Committee was in receipt of a report from the Planning and Development Department dated 1987 February 19 respecting the proposed Ontario Hydro Facility in Glanbrook.

It was moved by Alderman McCulloch, seconded by Alderman Christopherson and carried to adopt the following recommendation:

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That the City Clerk inform Ontario Hydro that the City of Hamilton does not object to the construction of a Hydro facility on any of four prepared sites in the Township of Glanbrook, providing that it meets all Ministry of Environment noise emission standards.

NOTE:

The proposed facility would not conflict with the planning objectives of the City of Hamilton.

There being no further business, the meeting then adjourned.

Adjournment

Taken as read and approved,

Mrs. S. K. Reeder
Acting Secretary

ALDERMAN J. SMITH, CHAIRMAN
PLANNING AND DEVELOPMENT COMMITTEE

F O R A C T I O N

2a.
(i)(ii)

FROM P. Kuppe DATE 1987 April 22

TO J. Thompson Refer to File No. _____

Attention Of _____

Your File No. _____

SUBJECT

Demolition


RECOMMENDATION

It is recommended that the following applications be tabled.

BACKGROUND

1. 169 Hunter Street East
2. 171 Hunter Street East

(0811g)

A handwritten signature in dark ink, appearing to be 'J. Thompson', is written over the bottom right portion of the page.



THE CORPORATION OF THE CITY OF HAMILTON

DEPARTMENT OF BUILDINGS

HAMILTON, ONTARIO

Date: 1987 April 22

REPORT TO THE PLANNING & DEVELOPMENT COMMITTEE

DEMOLITION APPLICATION

CATEGORY "B" - NO IMMEDIATE REDEVELOPMENT IS PROPOSED
BUT IS UNECONOMICAL TO MAINTAIN THE EXISTING RESIDENTIAL
PROPERTY.

Map: E5
Zone: "LMR-2"
Lot Size: 20 x 136

ADDRESS: 169 Hunter Street East


PRESENT USE: S.F.D.

PROPOSED USE: Condominium

OWNER: Peter Arthur

COMMENTS: Owner has made application to rezone the property
to an "E-3" modified ditrict.

RECOMMENDATION: It is recommended that this application be
tabled until zoning application is approved.
The property is also of interest to LACAC which
recommends that the application be tabled.


for PAUL KUPPE, P.Eng.
Building Commissioner

RD/ggf
(0411g)



THE CORPORATION OF THE CITY OF HAMILTON

DEPARTMENT OF BUILDINGS

HAMILTON, ONTARIO

Date: 1987 April 22

REPORT TO THE PLANNING & DEVELOPMENT COMMITTEE

DEMOLITION APPLICATION

CATEGORY "B" - NO IMMEDIATE REDEVELOPMENT IS PROPOSED
BUT IS UNECONOMICAL TO MAINTAIN THE EXISTING RESIDENTIAL
PROPERTY.

Map: E-5
Zone: "LMR-2"
Lot Size: 19.5 x 136

ADDRESS: 171 Hunter Street East

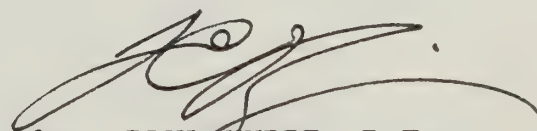
PRESENT USE: S.F.D.

PROPOSED USE: Condominium

OWNER: Peter Arthur

COMMENTS: Owner has made application to rezone the
property to an "E-3" modified district.

RECOMMENDATION: It is recommended that this application be
tabled until zoning application is approved.
The property is also of interest to LACAC which
recommends that the application be tabled.


for PAUL KUPPE, P.Eng.
Building Commissioner

RD/ggf
(0411g)

FOR ACTION

20.
(iii) - (viii)

FROM P. Kuppe DATE 1987 April 22

TO J. Thompson Refer to File No. _____

Attention Of _____

Your File No. _____

SUBJECT

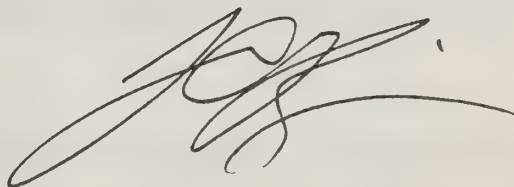
Demolition

RECOMMENDATION

That the Building Commissioner be authorized to issue demolition permits for the demolition of residential buildings as outlined below.

BACKGROUND

1. 44 Evans
2. 109 Inchbury Street
3. 45 Walnut Street South
4. 45 Hillyard Street
5. 47 Hillyard Street
6. 159 Nash Road South



(0811g)

BUILDING DEPARTMENT

DEMOLITION APPLICATIONS

CATEGORY "A" - PROPOSED USE OF

LAND IS PERMITTED BY PRESENT ZONING

DATE: 1987 April 22

ITEM	ADDRESS	PRESENT USE	PROPOSED USE	LOT SIZE	ZONE	RECOMMENDATION
1.	44 Evans	S.F.D.	S.F.D.	34 x 63	"D"	Permit already issued by Building Commissioner on April 13, 1987 pursuant to "Unsafe Order" issued April 2, 1987. It is recommended that the Committee approve demolition.
2.	45 Walnut Street South	S.F.D.	Additional Parking	27.460 X 78.650	"H"	It is recommended that the Committee approve demolition.


 PETER C. LAMPMAN, P. ENG.,
 DIRECTOR OF PLAN EXAMINATION



THE CORPORATION OF THE CITY OF HAMILTON

DEPARTMENT OF BUILDINGS

HAMILTON, ONTARIO

Date: 1987 April 22

REPORT TO THE PLANNING & DEVELOPMENT COMMITTEE

DEMOLITION APPLICATION

CATEGORY "B" - NO IMMEDIATE REDEVELOPMENT IS PROPOSED
BUT IS UNECONOMICAL TO MAINTAIN THE EXISTING RESIDENTIAL
PROPERTY.

Map: W11
Zone: "D"
Lot Size: 25 x 150

ADDRESS: 109 Inchbury Street


PRESENT USE: S.F.D.

PROPOSED USE: Vacant (Parking area)

OWNER: E. Young and M. Segato

COMMENTS: Mrs. E. Young of 107 Inchbury is joint owner of
109 Inchbury with Mrs. Segato of 111 Inchbury.
Mrs. Young is in the process of purchasing half
ownership of 109 Inchbury from Mrs. Segato and
has made application to Land Division to combine
the properties known as 107 and 109 Inchbury.

RECOMMENDATION: It is recommended that the Committee approve
demolition.


for PAUL KUPPE, P.Eng.
Building Commissioner

RD/ggf
(0411g)



THE CORPORATION OF THE CITY OF HAMILTON

DEPARTMENT OF BUILDINGS

HAMILTON, ONTARIO

Date: 1987 April 22

REPORT TO THE PLANNING & DEVELOPMENT COMMITTEE

DEMOLITION APPLICATION

CATEGORY "B" - NO IMMEDIATE REDEVELOPMENT IS PROPOSED
BUT IS UNECONOMICAL TO MAINTAIN THE EXISTING RESIDENTIAL
PROPERTY.

Map: E-20
Zone: "J/S-647,S-647b"
Lot Size: 22 x 80

ADDRESS: 47 Hillyard


PRESENT USE: S.F.D.

PROPOSED USE: Vacant

OWNER: G. Hoffmann Garage

COMMENTS:

RECOMMENDATION: It is recommended that the Committee approve
demolition.


for PAUL KUPPE, P.Eng.
Building Commissioner

RD/ggf
(0411g)



THE CORPORATION OF THE CITY OF HAMILTON

DEPARTMENT OF BUILDINGS

HAMILTON, ONTARIO

Date: 1987 April 22

REPORT TO THE PLANNING & DEVELOPMENT COMMITTEE

DEMOLITION APPLICATION

CATEGORY "B" - NO IMMEDIATE REDEVELOPMENT IS PROPOSED
BUT IS UNECONOMICAL TO MAINTAIN THE EXISTING RESIDENTIAL
PROPERTY.

Map: E-20
Zone: "J/S-647,S-647b"
Lot Size: 20 x 80

ADDRESS: 45 Hillyard

PRESENT USE: S.F.D.

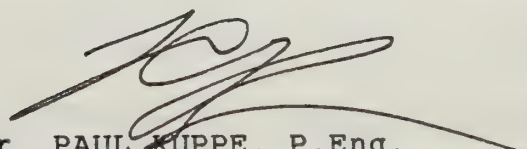
PROPOSED USE: Vacant

OWNER: G. Hoffmann Garage

COMMENTS:

RECOMMENDATION: It is recommended that the Committee approve
demolition.

RD/ggf
(0411g)


for PAUL RUPPE, P.Eng.
Building Commissioner



THE CORPORATION OF THE CITY OF HAMILTON

DEPARTMENT OF BUILDINGS

HAMILTON, ONTARIO

Date: 1987 April 22

REPORT TO THE PLANNING & DEVELOPMENT COMMITTEE

DEMOLITION APPLICATION

CATEGORY "B" - NO IMMEDIATE REDEVELOPMENT IS PROPOSED
BUT IS UNECONOMICAL TO MAINTAIN THE EXISTING RESIDENTIAL
PROPERTY.

Map: E-106
Zone: "C"
Lot Size: 106.270 x 150

ADDRESS: 159 Nash Road South

PRESENT USE: S.F.D.

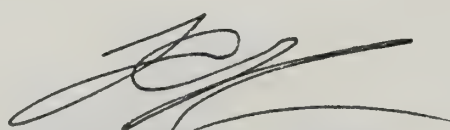
PROPOSED USE: Vacant

OWNER: The Serbian Eastern Orthodox Church of St.
Nicholas

COMMENTS: Decreasing the non-conformity of principal
use of the property.

RECOMMENDATION: It is recommended that the Committee approve
demolition.

RD/ggf
(0411g)


for PAUL KUPPE, P.Eng.
Building Commissioner



APR 16 1987

3a.

THE CORPORATION OF THE CITY OF HAMILTON

FROM D.W.Vyce, Director of Real Estate DATE 1987 April 14
Name & Title

FOR ACTION ☒ FOR INFORMATION ☐ File No. 20.1.238(4509)

TO: CITY COUNCIL ☐ (OR) PLANNING & DEVELOPMENT ☒
Committee

SUBJECT

Extension of Closing Date
Sale of 66-76 Fullerton Avenue

RECOMMENDATION

That approval be given to extend the closing date for the sale of 66-76 Fullerton Avenue to Hamilton East Kiwanis Community Services Foundation Inc., from Friday, April 3, 1987 to Friday, June 19, 1987.

BACKGROUND

On November 25, 1986, City Council authorized the sale of this property to East Kiwanis Homes. As the Development Agreement was not finalized by the closing date of April 1, 1987, they have requested an extension to June 19, 1987 to allow them additional time. We therefore recommend approval to extend the closing date.

- c.c. - Mr. K.A. Rouff, City Solicitor - Attn: Mr. P.M. Shen
- Mr. E.C. Matthews, City Treasurer - Attn: Mr. D.Cobb
- Mr. M. Chidley, Regional Surveyor



3b.

THE CORPORATION OF THE CITY OF HAMILTON

FROM D.W.Vyce, Director of Real Estate DATE 1987 April 13
Name & Title

FOR ACTION ☒ FOR INFORMATION ☐ File No. 20.1.279(4504)

TO: CITY COUNCIL ☐ (OR) PLANNING & DEVELOPMENT ☒
Committee

SUBJECT

Sale - Part of Lot 10, Plan M-352
- Hamilton Industrial Park #3 -
Battaglia Sewer Contractor Ltd.

RECOMMENDATION

That an Offer to Purchase the lands of The Corporation of the City of Hamilton located on Upper Ottawa Street duly executed on April 13, 1987 by the Purchaser, Battaglia Sewer Contractor Ltd. and scheduled for closing on July 14, 1987, be approved and completed.

The purchase price is \$89,325.00. A deposit cheque in the amount of \$8,932.00 is being held by the City Treasurer pending Council approval.

The property is composed of an irregular shaped parcel of land located on the westerly limit of Upper Ottawa Street having a frontage of 30.48 metres (100 feet) more or less and containing an area of 8,034.6 m² (1.985 acres).

This transaction includes special building covenants, agreements and restrictions which are set out on the pages attached hereto, which terms should be included in the Committee's resolution to City Council.

BACKGROUND

This department has received an inquiry from Mr. G. Battaglia as to the possibility of purchasing a two acre lot on Upper Ottawa Street. The purchaser plans to build a 10,000 square foot building, one half for his sewer business and the other half for lease purposes. His company will have twelve (12) employees.

Attch.

- c.c. - Mr. K.A. Rouff, City Solicitor
- Mr. E.C. Matthews, City Treasurer
 - Mr. M. Chidley, Regional Surveyor
 - Mr. S. Ghanem, Director, Economic Development

- 6.1 The Purchaser acknowledges to the Owner that the Purchaser realizes that in addition to the sale price payable in this Offer to Purchase, there may be municipal, regional, governmental or provincial charges, fees, levies and rates to be paid by the Purchaser; in particular, without limiting the generality of the foregoing, the Purchaser realizes that he may also be required after the transfer to him:
- (a) to pay municipal, realty and business taxes;
 - (b) to pay City Local Improvement Charges for City services such as streets, sidewalks and curbs;
 - (c) to pay Regional Local Improvement Charges for Regional services such as water supply, storm sewers and sanitary sewers;
 - (d) to pay Regional Special Charge (sewer impost fee), upon application for a building permit;
 - (e) to pay building permit application fee;
 - (f) to pay for storm and sanitary sewers, water lines, their connections and laterals under the street and under the Purchaser's property;
 - (g) to pay for the connection of all utilities to the premises;
 - (h) to prepare and obtain approval of site plans pursuant to The Planning Act prior to the issuance of a building permit and to enter into a site plan agreement, if requested by the municipality;
 - (i) to convey five percent (5%) of the land to the municipality for park purposes as a condition of development or redevelopment of the land for residential purposes;
 - (j) to apply for a re-zoning of the property in the event that the Purchaser's proposed use of the property is not permitted by the zoning by-law. Such application is subject to the approval of the City and the approval of the Ontario Municipal Board.
- 6.2 This Agreement may not be assigned by the Purchaser. In particular and without limiting the generality of the foregoing statement, it is understood and agreed that only the Purchaser named herein shall take title on closing and the Purchaser does not have the right to direct the Owner to convey the land to the Purchaser in trust, to the Purchaser and another or to a new third party.
- 6.3 In consideration for the transfer of the hereinbefore described land to the transferee, in addition to payment of the sale price to the transferor, the transferee covenants and agrees to and with the transferor:
- 1. That the transferee shall commence construction of a building, having a minimum building area of 10,000 square feet, upon the hereinbefore described land by not later than January 14th, 1988

Building area is the greatest horizontal area of a building within the outside surface of the exterior walls. Construction is considered commenced when the foundations have been installed as determined by the Office of the Building Commissioner.
 - 2. That the transferee shall complete construction of the said building by not later than January 14th, 1989

The building is considered completed upon the issuance by the Office of the Building Commissioner of a Final Inspection Report.
 - 3. That no transfer of the hereinbefore described land shall be made by the transferee until The Corporation of the City of Hamilton confirms that covenants 1 and 2 have been complied with.

Continued..... 1(b)

4. In the event that the transferee does not comply with covenants 1 and 2 or either of them by the date(s) set out therein, the transferee covenants and agrees that the transferee shall sell the lands to the transferor, free and clear of all charges, encumbrances, liens, claims or adverse interests whatsoever - it requested by the transferor, for the sale price herein, (without any interest) - less (a) the deposit; (b) the commission paid (if any) by the transferor to a real estate agent; (c) arrears of realty taxes (including the local improvement charges), penalty and interest owing on them - and further, without increase or compensation for costs of any improvements, additions, alterations, services or structures on, in or under the said lands.
5. The said transferor as registered owner and the said transferee hereby apply to request and authorize the Land Registrar to have Notice of the covenants set out above entered on the Register of the land being transferred herein to the said transferee.
- 6.4 The Purchaser agrees that the restrictions, covenants and agreements in paragraph 6.3 shall not merge upon the closing of this transaction but shall continue in full force and effect for the benefit of the Vendor, its successors and assigns.
- 6.5 The Purchaser agrees that the transfer to him which he shall execute shall be subject to and include said paragraph 6.3 and its restrictions, covenants and agreements.

F O R A C T I O N

FROM Mrs. Susan K. Reeder, Acting Secretary
Planning and Development Committee DATE 1987 April 22

TO Planning and Development Committee Refer To File No. _____

Attention Of _____

Your File No. _____

SUBJECT Subdivision - 5% Park Payment

RECOMMENDATION

BACKGROUND

City Council, at its meeting held Tuesday, 1987 April 14th, referred back Section 17 of the Seventh Report of the Planning and Development Committee, attached hereto.

Also attached for the Committee's perusal, is the original recommendation from the Engineering Department.

17. Whereas, subdividers not conveying lands for park purposes are required to make cash payments in accordance with the Planning Act.

Whereas, the value of such payment is calculated by the Real Estate Department in accordance with the Planning Act and in keeping with proper appraisal standards.

Whereas, in the past, the 5% payment value was approved by Council on the recommendation of the Planning and Development Committee.

It is now resolved that:

- (a) The amount of 5% payment for park purposes in subdivisions be calculated by the Real Estate Department and collected through the subdivision agreements without submission to Council; and
- (b) The value be reviewed by the Planning and Development Committee and Council if the Subdivider disputes the value established by the Real Estate Department.
- (c) That the City Treasurer submit a Report on an annual basis to the Planning & Development Committee on the payments received.

F O R A C T I O N

FROM Engineering Department

DATE March 6, 1987

TO Planning and Development Committee

Refer to File No. E205-05

Attention Of K.A. Brenner

Your File No. _____

SUBJECT

Subdivision - 5% Park Payment.

RECOMMENDATION

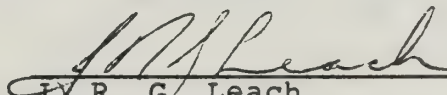
Whereas, subdividers not conveying lands for park purposes and are required to make cash payments in accordance with the Planning Act.

Whereas, the value of such payment is calculated by the Real Estate Department in accordance with the Planning Act and in keeping with proper appraisal standards.

Whereas, in the past, the 5% payment value was approved by Council on the recommendation of the Planning and Development Committee.

It is now resolved that:

1. The amount of 5% payment for park purposes in subdivisions be calculated by the Real Estate Department and collected through the subdivision agreements without submission to Council; and
2. The value be reviewed by Planning and Development Committee and Council if the Subdivider disputes the value established by the Real Estate Department.



R. G. Leach
Commissioner of Engineering

Background

The City in the days of the Planning Board and the old Planning Act established the practice of having the Planning Board approve the 5% cash payment for park purposes. This subsequently developed into the present day practice of the Department of Engineering sending a report to the Planning & Development Committee and the Committee reporting to Council.

Cont'd

- page 2 -
March 6, 1987

Cont'd

The principal of accepting cash or land is established at the draft plan approval stage. Therefore, the 5% approval report, the subject of this report, only established the monetary value. The monetary value is calculated by the Real Estate Department in accordance with established appraisal standards.

It is the opinion of the Real Estate, Finance and Engineering Departments that there is no real reason to have the 5% dedication amount approved by Council if the land owner agrees with the Real Estate Department's appraisal. In the case of a disagreement, we propose to submit the matter to the Planning and Development Committee.

The Legal Department has some reservation about the proposal contained in this report. They are of the opinion that the Committee should be informed of cash payments to be received because the Committees are informed of all expenditures required for subdivisions.

Financial Considerations

The adoption of this report will not alter the City's revenue as City Council in this part has not increased the Real Estate Department's appraisal on 5% payments, but the new policy would cut out approximately 30 committee reports per year.

KAB:ljg

cc: D. Matthews, City Treasury
cc: D. Vyce, Real Estate
cc: P. Shen, City Solicitor's Office

5a.

FOR INFORMATION

FROM E. W. Kowalski, Director
Department of Community Development DATE 1987 April 22

TO Planning and Development Committee Refer To File No. 800-0016.7

Attention Of _____

Your File No. _____

SUBJECT

Commercial Facade Loan Programme

BACKGROUND

The Department of Community Development, in reports dated 1985 December 10 and 1986 May 16, received authorization to establish a Commercial Facade Programme. The eligibility for the Programme requires that the businesses must be located in Business Improvement Area's (B.I.A.'s) which have been established for over one year.

Several Committee members, at the time of approval of the Programme, requested that the Department formulate a policy which would ensure that each Business Improvement Area would receive an equitable portion of the yearly allocation. The Department of Community Development therefore recommends that the following guidelines be adopted.

The Department has determined that there are approximately 950 businesses located in the six established B.I.A.'s. We have applied the total number of businesses in each B.I.A. as a percentage of the total and applied this to the available funds for the year 1987. The funding for the Areas using this formula is as follows:

Concession Street	105/950 x 400,000. = \$	44,211.
Jamesville	195/950 x 400,000. = \$	82,105.
Westdale Village	84/950 x 400,000. = \$	35,368.
Ottawa Street	175/950 x 400,000. = \$	73,684.
Downtown Promenade	270/950 x 400,000. = \$	113,684.
International Village ...	108/950 x 400,000. = \$	45,473.

As indicated above, it is noted that this will be used as a guideline and should any one yearly loan exceed an allocation, the loan would still be recommended for approval; however, significant differences would be held over using the next year's allocation. It is also proposed that if a B.I.A. does not have their portion committed by October of year end, that the funds would be re-allocated to other B.I.A.'s using the same formulas. This leaves a contingency of approximately \$5,500.

It is hoped that by adopting these guidelines, flexibility will be permitted, ensuring that each B.I.A. receives a fair share of the allocation. It should be noted that the current allocation for 1988 will be an additional \$300,000.

60.

DATE 1987 April 21

1-45.14(1)

Refer To File No. 1-45.14(2)

Attention Of D.A. Powers

Your File No.

Application by Lakeview Development Ltd. for City's Approval
of Mortgages

That the City as Lessor of the Sheraton Hamilton Hotel, hereby grant its approval to the following two Mortgages by Lakeview Development Ltd. as Mortgagor in favour of Lakeview Development of Canada Ltd. as Mortgagee:

(1) An \$18,000,000.00 Blanket Mortgage dated August 14, 1985 at 11% to December 31, 1985 and thereafter, until September 15, 1990 at 15% per annum, and as more particularly set out in the form of Mortgage annexed hereto as Schedule "A";

(2) A \$750,000.00 Mortgage Debenture dated August 14, 1985 at the prime rate of interest charged by the Royal Bank of Canada for substantial Canadian dollar loans until August 13, 1998, and as more particularly set out in the form of Mortgage Debenture annexed hereto as Schedule "B",

subject to the following conditions:


(a) That the above Mortgages are subject to the rights of the City as Lessor under the Ground Lease with Lakeview Development Ltd. dated May 3, 1983;

(b) In respect of the \$18,000,000.00 Blanket Mortgage, that the City receive from Lakeview Development of Canada Ltd. and Lakeview Development Ltd., a Consent to Mortgage Agreement (dated as of August 14, 1985) in the form annexed hereto as Schedule "C". The Mayor and City Clerk are hereby authorized to execute this Agreement;

(c) In respect of the \$750,000.00 Mortgage Debenture, that the City receive from Lakeview Development of Canada Ltd. and Lakeview Development Ltd. a Consent to Mortgage Agreement (dated as of August 14, 1985) in the form annexed hereto as Schedule "D". The Mayor and City Clerk are hereby authorized to execute this Agreement;

(d) The two Consent to Mortgage Agreements referred to in paragraphs (b) and (c) above, are to be registered on title to the Hotel by Lakeview and these Agreements will fulfill Lakeview's obligation to the City under the Ground Lease dated May 3, 1983 (sec.16.01) and under the Hotel Interface Agreement dated July 30, 1984 (sec.13(g)), to have its Mortgagees covenant with the City to comply with Lakeview's obligations should the Mortgagees take over the Hotel.

Note: Under the Ground Lease of May 3, 1983 referred to above between the City as Lessor and Lakeview Development Ltd. as Lessee, Lakeview's Mortgages of its leasehold property are subject to the approval of the City pursuant to section 16.01 of the Ground Lease.



D. A. Powers
for K. A. Rouff
City Solicitor

BACKGROUND

Under the Ground Lease (dated May 3, 1983) between the City and Lakeview Development Ltd., Lakeview is permitted to mortgage its interest and its Improvements on the leased property provided the Mortgagee enters into an Agreement with the City covenanting to comply with the obligations of Lakeview Development Ltd. pursuant to sections 16.01(a) and (e).

The proposed Mortgages in the form annexed hereto as Schedules "A" and "B" are in accordance with the Ground Lease as noted above.

Note: Council, on August 20, 1985 approved Lakeview's first Mortgage on the Hotel for \$15,000,000.00 for a period of five (5) years with The Canada Life Assurance Company. The above two Mortgages for which the City's consent is now requested, shall be second and third Mortgages of Lakeview's leasehold property.

attachs.

c.c. Mr. D. W. Vyce, Director of Real Estate
c.c. Mr. E. C. Matthews, City Treasurer
c.c. Mr. L. Sage, Chief Administrative Officer

Schedule "A"

THIS INDENTURE made as of the 14th day of August, 1985.

BETWEEN:

LAKEVIEW DEVELOPMENT LTD., a corporation
incorporated and continued under the laws
of Canada,

(hereinafter called "Lakeview"),

- and -

127089 CANADA LTD. (hereinafter called
"127089"), as General Partner for King Street
Hamilton Hotel Limited Partnership,

(hereinafter called the "Limited Partnership"),

(Lakeview and the Limited Partnership being
hereinafter collectively called the "Mortgagor").

OF THE FIRST PART.

- and -

LAKEVIEW DEVELOPMENT OF CANADA LTD., a
corporation incorporated under the laws
of Canada,

(hereinafter called the "Mortgagee"),

OF THE SECOND PART.

WITNESSETH THAT:

WHEREAS pursuant to the Development Agreement (hereinafter defined)
between The Corporation of the City of Hamilton (hereinafter called the
"City") and Lakeview, Lakeview was appointed the developer of the Lands (here-
inafter defined);

AND WHEREAS the Development Agreement provides that the Lands are to
be leased by the City to Lakeview and that the Lands are to be developed, in-
cluding the construction of the Improvements (hereinafter defined) thereon by
Lakeview within the period of time and in the manner provided for by the
Development Agreement;

AND WHEREAS pursuant to the Ground Lease (hereinafter defined) the
City did demise and lease to Lakeview the Lands for and during the term as set
out therein and at a yearly rental and upon terms, covenants and conditions as
therein contained;

AND WHEREAS pursuant to the Sublease (hereinafter defined) Lakeview
did demise and sublease the Lands to the Mortgagor for and during the term as
set out therein, less one (1) day, and at the yearly rental and upon the
terms, covenants and conditions as therein contained;

AND WHEREAS the Sublease provides, inter alia, that Lakeview shall
act as the agent of the Mortgagor to obtain long-term financing for the
Mortgagor, and that provided that the Mortgagor subordinates its interest in
the Project (hereinafter defined) to any security granted by Lakeview to the
Mortgagee under such long-term financing, Lakeview shall grant a mortgage
against its interest in the Project, including the Ground Lease, to secure
such long-term financing;

AND WHEREAS pursuant to the Acquisition and Development Agreement (hereinafter defined), the Limited Partnership purchased from Lakeview an undivided one-half interest in the said Improvements, effective October 1, 1984, it being provided by the terms of the Acquisition and Development Agreement that the interest of the Limited Partnership in the Lands, Hotel, the Sublease and the accounts receivable of Lakeview and the Limited Partnership which arise from their interests in the Hotel, and the Purchased Interest (as defined in the Acquisition and Development Agreement) shall be subordinated to the Underlying Financing (hereinafter defined);

AND WHEREAS the Mortgagor has granted to The Canada Life Assurance Company the Canada Life Mortgage to secure the principal amount of \$15,000,000.00, which mortgage is registered against the Lands in the Land Registry Office for the Land Titles Division of Wentworth as Instrument No. 163466 L.T.;

AND WHEREAS the Acquisition and Development Agreement provided that the Mortgagee shall provide to the Mortgagor this Blanket Mortgage in the amount of \$18,000,000.00 to be registered against the Mortgagor's interest in the Project;

AND WHEREAS the Mortgagor has agreed that the interest of the Mortgagor in the Project shall be subordinated and subject to this Blanket Mortgage;

AND WHEREAS the Mortgagor and Mortgagee as required by Section 16.01 of the Ground Lease have agreed with the City to enter into an agreement among the Mortgagor, the Mortgagee and the City in the form of agreement attached to an Undertaking executed by the Mortgagor in favour of the City, dated August 1, 1985 and registered or to be registered against title to the Lands, with such amendments and including such other terms and conditions as may be agreed upon among the parties thereto;

NOW THEREFORE it is hereby covenanted, agreed and declared as follows:

ARTICLE I - DEFINITIONS

Section 1.01 Definitions

In this Mortgage, unless there is something in the subject matter or context inconsistent therewith, the following words and expressions have the following meanings:

- (1) "Acquisition and Development Agreement" means an agreement between Lakeview, the Limited Partnership and Lakeview Development of Canada Ltd. dated as of October 1, 1984 and further described in the preamble hereto;
- (2) "Advance" means the portion of the Principal Sum advanced or to be advanced by the Mortgagee, from time to time, to or for the benefit of the Mortgagor upon and subject to this Mortgage;
- (3) "Blanket Mortgage" means this indenture made between the Mortgagee and the Mortgagor, together with all schedules annexed hereto;
- (4) "Business Day" means each day of the year during which the head office of the Mortgagee located in the Province of Manitoba is open for business;
- (5) "Canada Life Mortgage" means a mortgage granted by the Mortgagor to The Canada Life Assurance Company in the amount of Fifteen Million (\$15,000,000.00) Dollars with a term of 5 years and registered on August 22, 1985 against title to the Lands in the Land Registry Office for the Land Titles Division of Wentworth as Instrument No. 163466 L.T.;
- (6) "Cash Flow Deficiency" means the amount on a cash basis by which actual expenses incurred by Lakeview and the Limited Partnership in the ownership and operation of the Hotel, including:

- (i) the provision of a fund for the replacement of furniture, fixtures and equipment (but excluding all non-cash items such as a provision for depreciation);
- (ii) the Owners' Fixed Charges (calculated as if no accrual of interest was permitted under this Blanket Mortgage);
- (iii) the management incentive fee payable under the Management Agreement; and
- (iv) the basic management fee payable under the Management Agreement;

exceed the Total Revenue from the Hotel;

(7) "Certified Rent Roll" means a certified monthly rent roll, satisfactory to the Mortgagee, listing the names of all the tenants as described in the Leases, the space occupied or to be occupied pursuant to the Leases, the period of any options to renew the Leases and annual rents to be paid by all tenants under Leases;

(8) "City Tripartite Agreement" means the agreement entered into between the City, Lakeview and Citibank Canada, and dated as of the 1st day of November, 1984 to be registered in the Land Registry Office for the Registry Division of Wentworth (#62);

(9) "Development Agreement" means an agreement dated as of the 19th day of November, 1981, registered on the 17th day of September, 1984, as Instrument No. 292836 C.D., as amended by an agreement made as of the 3rd day of August, 1982, and registered on September 17th, 1984 as Instrument No. 292837 C.D., and as further amended by a Closing Agreement dated as of the 3rd day of May, 1983 and registered on the 17th day of September, 1984 as Instrument No. 292838 C.D., and as further amended by an amending agreement dated the 29th day of July, 1983 and registered on the 17th day of September, 1984 as Instrument No. 292840 C.D., and includes such agreement, amending agreements and any further amendments thereto, all made by and between the City and Lakeview and registered in the Registry Office for the Registry Division of Wentworth (#62);

(10) "Event of Default" means any one or more of the events or circumstances set out in Article VIII;

(11) "Ground Lease" means a ground lease dated May 3, 1983 respecting the Lands, between the City as landlord and Lakeview as tenant, registered as Instrument No. 271066 C.D., as amended by further Agreement dated July 29, 1983 registered as Instrument No. 292840 C.D. and by further Agreement dated May 3, 1983 registered as Instrument No. 292838 C.D. and by further Agreement dated November 1, 1984, among Lakeview, the City and Citibank Canada, and by further Agreement dated August 21, 1985 registered as Instrument No. 164283 L.T., and as further and otherwise previously or hereafter amended by agreement between the City and Lakeview;

(12) "Hotel" means the 17-storey Sheraton Hamilton Hotel building built or to be built on the Lands which does or will, when completed, contain an equivalent of 310 guest bedrooms and the Shopping Mall (consisting of approximately 29,000 square feet of retail and commercial space located on the main and lower floors of the Hotel which will, when completed, contain approximately 20 units) and includes all of the furniture, fixtures and equipment which are or will be contained therein;

(13) "Improvements" means any alteration, addition, repair to, or any construction, erection or installation located on, made to, placed upon or erected in, under or on the Lands and premises, whether pursuant to the Development Agreement and the Plans and Specifications or otherwise, and includes the Hotel, the Shopping Mall consisting of commercial retail space of approximately 29,000 net rentable square feet, all other buildings, shopping promenades, plazas, commercial retail premises, parking facilities and landscaping services, interior and exterior decorating, fixed plant machinery, equipment and any other works, structures and facilities ancillary thereto or connected therewith, the demolition or removal of any building, structure, or works or part thereof and includes the Publicly Usable Open Space (as such term is

defined in the Ground Lease), as the same are varied, added to or replaced or substituted, from time to time;

(14) "Indebtedness Secured Hereby" means all debts, obligations and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, pursuant to the terms of this Mortgage, at any time owing by the Mortgagor to the Mortgagee and includes the Principal Sum or any part or parts thereof advanced from time to time by the Mortgagee to the Mortgagor, interest thereon as stipulated in this Blanket Mortgage, interest on overdue interest and any other fees, charges, costs and expenses payable to the Mortgagee hereunder;

(15) "Insurance" means the forms of insurance coverage to be placed and maintained in force by the Mortgagor as set out in Article VI hereof;

(16) "Interest Adjustment Date" means the 15th day of September, 1985;

(17) "Interface Agreement" means the agreement entered into between the City, Lakeview, Second Phase Civic Square Limited and the Fourth Phase Civic Square Limited dated as of July 30, 1984, and registered in the Land Registry Office for the Registry Division of Wentworth as Instrument No. 161659 L.T., together with all present and future amendments thereto;

(18) "Lands" means the leasehold lands described in Schedule "A" annexed hereto, together with such other lands, easements or rights which may from time to time be granted to the Mortgagor in connection with, or be added to, the land described in Schedule "A" annexed hereto, pursuant to the Ground Lease, Sublease, Interface Agreement or any other agreement, document or indenture whatsoever, or as may be otherwise leased or granted to the Mortgagor for the construction, execution, use or operation of the Improvements;

(19) "Leases" means all present and future leases, agreements to lease, letters of intent to lease and all licences of the whole or any part of the Project by way of sublease or otherwise, including the right to use or occupy the whole or any part of the Improvements, including, without limitation, the Hotel, the Lands and parking areas (as such term is defined in the Ground Lease) and in each case includes all revisions, alterations modifications, extensions or renewals thereof;

(20) "Management Agreement" means the management agreement entered into between Lakeview and the Mortgagor dated the 1st day of August, 1985;

(21) "Manager" means Lakeview Development Ltd.;

(22) "Manager's Loan" means a debenture in favour of Lakeview to be registered against the Project in the amount of Seven Hundred and Fifty Thousand (\$750,000.00) Dollars pursuant to the terms of the Manager's Loan Agreement;

(23) "Manager's Loan Agreement" means Schedule "F" attached to the Management Agreement;

(24) "Maturity Date" means the date which is the fifth anniversary of the Interest Adjustment Date;

(25) "Mortgaged Property" means and includes all the property and assets expressed herein to be now or which may hereafter be mortgaged, pledged and/or charged pursuant to this Blanket Mortgage, or intended so to be, (including, without limitation, all of the property and assets referred to in Section 3.01 hereof) for and with the payment of the monies intended to be secured hereby;

(26) "Mortgagor" means any one and all of Lakeview, 127089, as general partner for the Limited Partnership, and the Limited Partnership;

(27) "Owners' Fixed Charges" means all expenditures made or accruing payable during the Fiscal Year (meaning the fiscal period of the Limited Partnership ending December 31st in each year) in question on account of:

(i) premiums for insurance applicable to the Hotel;

(ii) municipal real property taxes applicable to the Hotel;

(iii) interest and principal payable in respect of this Blanket Mortgage; and

(iv) rental payments for leased furniture and equipment;

(28) "Permitted Encumbrances" means those encumbrances set out in Schedule "B" annexed hereto;

(29) "Person" means a corporation, an association, a partnership, an organization, a business, an individual, a governmental or political subdivision thereof or a government agency, or any combination thereof;

(30) "Prime Rate" means the rate of interest quoted by the main branch in Winnipeg of the Canadian Imperial Bank of Commerce from time to time as its prime lending rate;

(31) "Principal Sum" means the principal sum set out in Section 3.06 hereof;

(32) "Project" means the Lands and Improvements;

(33) "Security Hereby Constituted" means the security constituted by this Mortgage upon the Mortgaged Property;

(34) "Sublease" means the sublease entered into between Lakeview and the Mortgagor dated October 1, 1984, and registered in the Land Registry Office for the Registry Division of Wentworth (#62) on December 31, 1984 as Instrument No. 153111 L.T.;

(35) "Taxes" means all real property taxes, rates, duties and assessments (including local improvement taxes) impost charges or levies, whether general or special, that are levied, rated, charged or assessed against the Project or any part thereof, from time to time, by any lawful taxing authority, whether federal, provincial, municipal, school or otherwise, and any taxes or other amounts which are imposed in lieu of, or in addition to, any such real property taxes (whether of the foregoing character or not or whether in existence at the date of this Mortgage or not) and any such real property taxes levied or assessed against the Mortgagor on account of its ownership of the Project or its interest therein;

(36) "Total Revenue" means the revenues and income derived directly or indirectly from the operation of the Hotel (other than from the operation of the Shopping Mall, which means approximately 29,000 square feet of retail and commercial space located on the main and lower floors of the Hotel which will, when completed, contain approximately 20 units) by including rental or other payments from lessees and concessionaires (but not the gross receipts of such lessees or concessionaires), and the proceeds of use and occupancy insurance actually received by the Manager (after deducting therefrom necessary expenses in connection with the adjustment or collection thereof);

(37) "Turnover Date" means the later of the date upon which the architect for the Hotel confirms that substantial completion shall have occurred and the date upon which the furnishings and equipment of the Hotel have been installed;

(38) "Underlying Financing" means mortgages or loans in an aggregate outstanding principal amount of not less than \$14,000,000.00 and not more than \$18,000,000.00, which may include, without limitation, the Canada Life Mortgage, and which Underlying Financing shall:

- (a) be secured by mortgages or charges registered against the Hotel, Sublease and Ground Lease in priority to this Blanket Mortgage;
- (b) be blanketed by this Blanket Mortgage and included in the Principal Sum hereof advanced;
- (c) be for a term of not more than five years commencing on the Interest Adjustment Date; and
- (d) bear interest at a fixed rate.

A revolving line of credit for working capital for the Hotel may be included in the term "Underlying Financing", notwithstanding that such revolving line of credit may not be secured by or registered against the Hotel.

ARTICLE II - INTERPRETATION

Section 2.01 Headings

The division of this Blanket Mortgage into Articles and Sections and the insertion of headings are for convenience of reference only and in no way define, limit, construe or describe the scope or intent of such Sections or Articles and shall not affect the construction or interpretation of this Blanket Mortgage.

Section 2.02 Extending Meanings and Genders, etc.

The words "hereof", "herein", "hereunder" and similar expressions used in any Section or subsection of this Blanket Mortgage relate to the whole of this Blanket Mortgage and not to that Section or subsection only, unless otherwise expressly provided. The use of the neuter singular pronoun to refer to the Mortgagor or the Mortgagee is deemed a proper reference even though the Mortgagor or the Mortgagee is an individual, a partnership, a corporation or a group of two or more individuals, partnerships or corporations. The necessary grammatical changes required to make the provisions of this Blanket Mortgage apply in the plural sense where there is more than one Mortgagor or Mortgagee and to either corporations, associations, partnerships, or individuals, male or female, shall in all instances be assumed as though in each case fully expressed.

Section 2.03 Partial Invalidity

If for any reason whatsoever any term, covenant or condition of this Blanket Mortgage, or the application thereof to any person or circumstance, is to any extent held or rendered invalid, unenforceable or illegal, then such term, covenant or condition:

- (a) is deemed to be independent of the remainder of this Blanket Mortgage and to be severable and divisible therefrom, and its invalidity, unenforceability or illegality does not affect, impair or invalidate the remainder of this Blanket Mortgage or any part thereof; and
- (b) continues to be applicable to and enforceable to the fullest extent permitted by law against any Person and in any circumstances other than those as to which it has been held or rendered invalid, unenforceable or illegal.

Section 2.04 Governing Law

This Blanket Mortgage shall be construed in accordance with and governed by the laws of the Province of Ontario.

Section 2.05 Time of the Essence

Time is of the essence of this Blanket Mortgage and of every part thereof.

Section 2.06 Currency

All dollar amounts referred to in this Blanket Mortgage and all payments to be made hereunder are in Canadian funds.

Section 2.07 Entire Agreement

This Blanket Mortgage constitutes the entire agreement between the parties with respect to the matters herein contained and may not be amended or modified in any respect except by written instrument signed by the parties hereto.

ARTICLE III - LOAN AND SECURITY

Section 3.01 Specific Charge

In consideration of the premises and of the sum of Eighteen Million (\$18,000,000.00) Dollars, of lawful money of Canada, lent to the Mortgagor by the Mortgagee (the receipt and sufficiency of which is hereby acknowledged) and to secure the due payment of the Indebtedness Secured Hereby and the performance of the obligations of the Mortgagor herein contained and in pursuance of each and every power and authority it thereunto enabling, the Mortgagor does hereby grant, convey, demise, assign, mortgage, pledge and charge (subject to the Permitted Encumbrances, the Underlying Financing and the exception as to leaseholds contained in Section 3.02 hereof), as and by way of a fixed and specific mortgage, pledge and charge to and in favour of the Mortgagee of and upon the right, title and interest of the Mortgagor, both present and future, in and to:

- (a) the Lands;
- (b) the Ground Lease, the Sublease and all other real and immoveable property owned or used by the Mortgagor as part of or in connection with its operation of the Project, and all rights-of-way, easements, licences, franchises and privileges appurtenant or appertaining thereto;
- (c) all Improvements now or hereafter erected or located on or under the Lands; and
- (d) the Total Revenue, including any income derived from any tenancy, use or occupation of the Mortgaged Property and any rents and other sums payable to the Mortgagor pursuant to the terms of any Leases;
- (e) all benefits, advantages and powers to be derived from any and all Leases, with full power and authority to demand, sue for, recover, receive and give receipts for all rents and all other monies payable thereunder and otherwise to enforce the rights of the landlord thereunder in the name of the Mortgagor; and
- (f) the benefit of any guarantees of and indemnities with respect to any Leases and the performance of any or all of the obligations of any lessee thereunder.

Section 3.02 Reservation of Last Day of Leasehold Terms

It is hereby declared that the last day of any term of years reserved by any lease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Mortgagor, and whether falling within the general or particular description of the Mortgaged Property, is hereby and shall be excepted out of the mortgage, pledge and charge hereby created, and does not and shall not form part of the Mortgaged Property, but the Mortgagor shall stand possessed of the reversion remaining in the Mortgagor of any leasehold premises for the time being demised as aforesaid upon trust to assign and dispose thereof as the Mortgagee shall for such purpose direct; and upon any sale or sales of such leasehold interest or any part thereof, the Mortgagee, for the purpose of vesting the aforesaid residue of any such term or any renewal thereof in any purchaser or purchasers thereof, shall be entitled by deed or writing to appoint such purchaser or purchasers or any other person or persons a new trustee or trustees of the aforesaid residue of any such terms or any renewal thereof in place of the Mortgagor and to vest the same accordingly in the new trustee or trustees so appointed freed and discharged from any obligation respecting the same.

Section 3.03 Habendum

To have and to hold the Mortgaged Property and all rights hereby conferred unto the Mortgagee and its successors and assigns forever, and with the powers and authorities and subject to the terms and conditions mentioned and set forth in this Blanket Mortgage.

Section 3.04 Principal Sum and Interest Payment

The Principal Sum secured by this Mortgage is Eighteen Million (\$18,000,000.00) Dollars and the Mortgagor shall pay to the Mortgagee, without any deduction or abatement except as herein provided, interest on the Principal Sum, as well after as before the Maturity Date, default and judgment, at the following rates in respect of the following periods during the term hereof:

- (a) from the date of the First Advance hereunder to the 31st day of December, 1985, inclusive, Eleven (11%) percent per annum; and
- (b) from the first day of January, 1986 to the Maturity Date, inclusive, Fifteen (15%) percent per annum;

on all amounts outstanding under this Blanket Mortgage with interest on overdue interest payable at the same rate, having regard to the rate then applicable pursuant to the foregoing.

1. Interest on the Principal Sum (the "Principal Sum Interest") at the rates hereinbefore set out, calculated on a daily basis on all amounts from time to time advanced, computed and compounded semi-annually from the respective dates of such advances, shall become due and be paid in arrears, at the Mortgagee's head office in Winnipeg prior to 3:00 p.m. Central Time on the 15th day of each month, commencing with the 15th day of the month immediately following the date of the first Advance hereunder and continuing on the same day in each and every month thereafter up to and including the Interest Adjustment Date. Payments of interest made after 3:00 p.m. on any day shall be deemed to have been received by the next Business Day. Accrued interest to the date of any Advance will be deducted from each Advance and the Mortgagee shall have the right and is hereby authorized by the Mortgagor to deduct from each Advance the amount of any unpaid interest.

2. Following the Interest Adjustment Date, the Principal Sum Interest at the rates and computed and compounded and payable in the manner and on the terms and conditions hereinbefore set out shall become due and be paid on the 15th day of the month next following the Interest Adjustment Date and on the 15th day of each and every month thereafter up to and including the Maturity Date.

3. On or about the last day of each month, the Mortgagee shall invoice the Mortgagor for the interest then accrued, provided, however, that the failure to invoice shall not in any way affect the Mortgagor's obligation to pay the Principal Sum Interest and interest on overdue interest at the aforementioned rates in effect from time to time, and at the time, place and manner herein specified.

4. Each amount paid to the Mortgagee hereunder shall be applied as follows: firstly, in payment of interest; secondly, in payment of all other monies due or owing under this Blanket Mortgage; and thirdly, in reduction of the Principal Sum then outstanding.

Section 3.05 Subject to Underlying Financing

The Blanket Mortgage is subject to the Canada Life Mortgage, in the amount of \$15,000,000.00. The Mortgagee agrees that it shall execute all documents and agreements of subordination and do all things necessary to subordinate this Blanket Mortgage to the Underlying Financing, if necessary. It is agreed that the principal amount hereof, Eighteen Million (\$18,000,000.00) Dollars, shall include the principal amount of the Underlying Financing, including, without limitation, the principal amount of Fifteen Million (\$15,000,000.00) Dollars owing by the Mortgagor under the Canada Life Mortgage.

Section 3.06 Interest on Full Principal Sum

(a) In consideration of the advance to the Mortgagor by the Mortgagee of the amount which is the difference between the Principal Sum of this Blanket Mortgage and the aggregate of the principal amounts advanced under the Underlying Financing, and in consideration of the covenants and obligations of the Mortgagee set forth in Article IV herein, and provided that the Mortgagee

is not then in default hereunder, the Mortgagor covenants and agrees that it will pay to the Mortgagee, on the interest payment dates set out in Section 3.04, interest as provided aforesaid on the full Principal Sum of this Blanket Mortgage. For greater certainty, it is understood and agreed that such interest shall be payable on the whole of the Principal Sum, being Eighteen Million (\$18,000,000.00) Dollars, which sum it is acknowledged includes the principal amount under the Underlying Financing, including, without limitation, the Canada Life Mortgage.

(b) If the Mortgagor experiences a Cash Flow Deficiency in any month, the interest payable hereunder may be accrued to the extent of the lesser of:

- (i) the Cash Flow Deficiency of the Mortgagor for such month; and
- (ii) the amount by which the interest payable under this Blanket Mortgage in such month exceeds the interest payments due under any Underlying Financing in such month.

Accrued interest hereunder shall bear interest which shall be due and payable in like manner and at like times as applicable with respect to the Principal Sum herein pursuant to Section 3.04.

Section 3.07 Repayment

The Principal Sum and all accrued and unpaid interest thereon shall be repaid in full by the Mortgagee on the Maturity Date.

Section 3.08 Place and Manner of Payment

The Principal Sum, together with all accrued interest thereon, shall be paid to the Mortgagor at its head office located at the following address:

6th Floor, 185 Carlton Street
Winnipeg, Manitoba
R3C 3J1

or at such other address as may be specified by the Mortgagee.

Section 3.09 Application of Payments

Except as specifically provided in Section 8.13 hereof, any and all payments made in respect of the Indebtedness Secured Hereby, including without limitation, all monies realized from any securities held therefor (including monies realized on any enforcement of this Blanket Mortgage), may be applied or computed to such part or parts of the Indebtedness Secured Hereby as the Mortgagee may see fit and the Mortgagee shall at all times and from time to time have the right to change, as it may see fit, any such imputation or appropriation.

Section 3.10 Prepayment

The Mortgagor and Mortgagee agree that any sums from time to time secured hereby may be prepaid, in full or in any part, by the Mortgagor to the Mortgagee at any time without notice or bonus.

Section 3.11 Charge Valid Irrespective of Advance of Money

The security hereby created and the mortgages, charges, pledges and assignments hereby made and created shall be and be deemed to be effective and shall have effect whether or not the Principal Sum or any part thereof shall be advanced before or after or upon the date of the execution of this Blanket Mortgage.

ARTICLE IV - UNDERLYING FINANCING

Section 4.01 Mortgagee's Obligations Under Canada Life Mortgage

(a) Provided the Mortgagor is not in default hereunder, the Mortgagee agrees to pay, and hereby assumes the liability of the Mortgagor for

payment of, when due, all amounts payable under the Underlying Financing, including, without limitation, the Canada Life Mortgage. The Mortgagor may remedy any default by the Mortgagee in making such payments under the Canada Life Mortgage or any other Underlying Financing by making such payments directly to the mortgagee thereof ("Direct Payments") and the amount of such Direct Payments shall be repayable by the Mortgagee to the Mortgagor on the next monthly interest payment date hereunder, together with interest thereon at the rate then applicable to the Principal Sum in respect of that month as set out at Section 3.04 hereof, failing which, such Direct Payments shall be applied pro tanto in reduction of the Mortgagor's obligation to pay interest hereunder on such monthly interest payment date.

(b) The Mortgagor shall be entitled at any time during the Term hereof to make one or more Direct Payments under the Underlying Financing, provided, however, that the Mortgagor has first given to the Mortgagee fourteen (14) days' written notice of its intention to so make such Direct Payments ("Notice of Direct Payment"). The Mortgagor shall be obligated to continue to make Direct Payments and to fully satisfy all obligations under the Underlying Financing, and to pay any amounts, whether principal, interest or of any nature or kind whatsoever, due and payable under the Underlying Financing from the date in respect of which it delivered the Notice of Direct Payment until the date which is the later of the day 14 days following written notice by the Mortgagor to the Mortgagee that it intends to discontinue making such Direct Payments and the date specified by the Mortgagor in the Notice of Direct Payment for the termination of Direct Payments, upon which day the Mortgagor shall cease to be obligated to make Direct Payments and the obligation of the Mortgagee for the payment of amounts payable under the Underlying Financing pursuant to Section 4.01 shall recommence. Notwithstanding Sections 3.04 and 3.06 hereof, any Direct Payment paid by the Mortgagor pursuant to this Section 4.01(b) shall be set-off from the amount otherwise payable hereunder on the interest payment date on, or immediately following the date upon which such Direct Payment was made. For so long as the Mortgagor is obligated to make Direct Payments to the mortgagee(s) of the Underlying Financing, it agrees to and shall indemnify and save harmless the Mortgagee from all costs, losses, damages and expenses incurred by the Mortgagee resulting from the failure of the Mortgagor to satisfy and fulfill each and every covenant and obligation pursuant to the Underlying Financing, including the payment of any and all amounts thereunder.

Section 4.02 Mortgagee To Indemnify

It is further agreed that provided there be no default hereunder, and except in the event that the Mortgagor has given Notice of Direct Payment to the Mortgagee as set out in Section 4.01(b) hereof and the obligation of the Mortgagor to make Direct Payments has not terminated pursuant to the terms of that Section, the Mortgagee shall indemnify and save harmless the Mortgagor from any and all liability for payments of interest and principal under and by virtue of the Underlying Financing and from any and all costs, losses, damages and expense which may be incurred by the Mortgagor resulting from the failure of the Mortgagee to make such payments of interest and principal.

Section 4.03 Mortgagor's Obligations Under Underlying Financing

The Mortgagor agrees to observe, keep and perform all the covenants, obligations and conditions to be observed, kept or performed by the Mortgagor under or in connection with the Underlying Financing, except for such covenants as are herein agreed to be performed by the Mortgagee, and it is agreed that should the Mortgagor fail to observe, keep and perform any of the covenants, obligations and conditions contained in the Underlying Financing, such covenants, obligations and conditions may be observed, kept and performed by the Mortgagee hereunder and the Mortgagor agrees to indemnify and save harmless the Mortgagee from and against any and all costs, expenses, liabilities, demands, claims, actions and suits whatsoever arising under or by virtue of any failure by the Mortgagor to observe, keep or perform any of the covenants, obligations, or conditions to be observed, kept or performed by the Mortgagor under the Underlying Financing, or arising in connection with any bona fide attempt by the Mortgagee to remedy such failure. It is further agreed that any amounts expended or debts or liabilities incurred by the Mortgagee as a result of the default of the Mortgagor under the Underlying Financing shall be added to the outstanding principal amount hereof and shall be payable by the

Mortgagor to the Mortgagee with interest at the rates set out in Section 8.12 hereof, on demand, from the date such amount was expended or such debt or liability was incurred by the Mortgagee to the date of payment. It is further agreed that default by the Mortgagor in observing, keeping or performing any of the covenants, obligations and conditions under the Underlying Financing shall be deemed to be default under this Mortgage.

Section 4.04 Agreements to Amend or Extend

Neither the Mortgagor nor the Mortgagee shall enter into any agreement to amend or extend the Underlying Financing, including, without limitation, the Canada Life Mortgage, without the prior written consent of the other.

ARTICLE V - COVENANTS OF THE MORTGAGOR

The Mortgagor hereby covenants and agrees with the Mortgagee for the benefit of the Mortgagee, as follows:

Section 5.01 To Pay Principal and Interest

That it will duly and punctually pay or cause to be paid to the Mortgagee, the Indebtedness Secured Hereby at the dates and places, and in the manner set out herein.

Section 5.02 Use of Advances

That it will use the proceeds of this Blanket Mortgage only for the purpose of the development, construction and operation of the Project.

Section 5.03 Title to Mortgaged Property

That it lawfully holds a good and valid leasehold title to the Lands. That it has good right and lawful authority to grant, convey, demise, assign, mortgage, pledge and charge the Mortgaged Property in accordance with the provisions hereof and that the same is free and clear of any other mortgage, charge, debenture, lien or encumbrance ranking or purporting to rank or capable of being enforced prior to or pari passu with this Blanket Mortgage, except Permitted Encumbrances; and that it will warrant and defend its right, title and interest thereto against all claims and demands whatsoever of all persons whomsoever.

Section 5.04 Maintain and Operate

That it will do all acts and things necessary to maintain, keep and operate the Project in good operating condition and that it will diligently preserve and maintain at all times any liquor licence issued pursuant to Ontario law and used in the operation of the hotel business, and will carry on and conduct its business in a proper and efficient manner so as to preserve and protect the Mortgaged Property and the earnings, incomes, rents, issues and profits therefrom and will keep or cause to be kept proper books of account and make or cause to be made therein true and accurate entries of all material dealings and transactions in respect of the Mortgaged Property and its business and will permit, upon reasonable notice and during usual business hours, the Mortgagee and its representatives to examine the books of account and other financial records of the Mortgagor and to make copies and take extracts thereof or therefrom.

Section 5.05 To Permit Access

Subject to the terms, covenants and conditions contained in the Management Agreement, that at all times while any amounts owing to the Mortgagee hereunder are outstanding and unpaid, the Mortgagor will permit any Person designated by the Mortgagee to visit and inspect the Project and shall ensure that such person has free and unrestricted access to the Project and any part thereof, and that upon request, the Mortgagor will provide such Person with such information and data relating to the Project as such Person may reasonably request.

Section 5.06 To Maintain Existence

That it will do all acts and things necessary to keep the corporate existence of Lakeview and 127089 and the existence of the Limited Partnership in full force and effect and to keep any and all qualifications necessary for the development and proper operation of the Project in full force and effect.

Section 5.07 Not to Permit Liens

That it will use its best efforts to prevent any mechanics' or construction lien or claim from being filed or otherwise asserted against the Project and the Mortgagor will promptly cause the discharge of any such mechanics' or construction lien; provided that the Mortgagor may contest in good faith and with reasonable diligence the validity of any such lien or claim upon first furnishing such security, bond or indemnity with respect thereto as the Mortgagee may reasonably require.

Section 5.08 To Perform Obligations

That it will do, observe and perform or cause to be done, observed and performed all of its obligations and all matters and things necessary or expedient to be done, observed or performed by virtue of any law of Canada or any province or municipality thereof for the purpose of creating, performing or maintaining this Blanket Mortgage.

Section 5.09 Not To Remove or Destroy Buildings

That it will not remove or destroy or authorize to be removed or destroyed the Improvements or any part thereof.

Section 5.10 To Repair

That it will at all times repair and keep in repair and good order and condition, or cause to be so repaired and kept in repair and good order and condition the Mortgaged Property, and each and every part thereof, in accordance with the standards of a prudent owner of a comparable first-class Hotel/Shopping Centre complex and shall renew and replace or cause to be renewed and replaced all and any part of the same which may become worn, dilapidated, unserviceable, inconvenient or destroyed, even by a fortuitous event, and which are necessary for the efficient operation of the Mortgaged Property and, at all reasonable times, allow the Mortgagee or its duly authorized agent access to the Mortgaged Property in order to view the state and condition of the Mortgaged Property.

Section 5.11 Proceeds of Financing or Re-Financing

That it will pay to the Mortgagee all proceeds from the conveyance, sale, financing or re-financing of the Mortgaged Property, and any such proceeds so received by the Mortgagee shall be applied by the Mortgagee to reduce the Indebtedness Secured Hereby.

Section 5.12 To Perform Obligations Under the Ground Lease, etc.

That it will do, observe and comply with each and every term, covenant and condition of or under each and every agreement, instrument or other document relating to or affecting the Lands and the construction of the Improvements, including, without limitation, the following:

- (a) the security documents relating to the Underlying Financing;
- (b) the Sublease;
- (c) the Ground Lease;
- (d) the Development Agreement;
- (e) the Management Agreement;
- (f) the Manager's Loan Agreement;

- (g) the Interface Agreement;
- (h) the November 1, 1984 Lease Amending Agreement among Lakeview, the City and Citibank Canada;
- (i) the March 28, 1985 King Street Pedestrian Bridge Easement Agreement;
- (j) the June 10, 1985 Encroachment Agreement with The Regional Municipality of Hamilton-Wentworth;
- (k) the August 1, 1985 Agreement to extend the construction time limit to October 3, 1985;
- (l) the easements, agreements and subleases provided for in the July 3, 1984 Interface Agreement registered as Instrument No. 161659 L.T.;
- (m) Lakeview's 85 year Parking sublease to the City required under Section 22.14 of the Ground Lease;

and will not suffer or permit any default thereunder and will forthwith notify the Mortgagee in writing upon the occurrence of any default thereunder or the existence of any circumstance which, with the lapse of time, will likely result in the occurrence of any event of default thereunder and, save as provided for in Section 5.30, will not alter or amend any of the aforesaid agreements without the written consent of the Mortgagee. The Mortgagee acknowledges the obligations of the Mortgagor and/or Lakeview alone under the documents referred to in paragraphs (a) to (m) above and hereby agrees that this Blanket Mortgage is subject to the rights of the City under the terms and conditions contained or to be contained in such documents, as the case may be.

Section 5.13 To Perform Obligations to the Mortgagee

That it will from time to time punctually keep, observe, comply with, fulfill, perform and satisfy each and any of the terms, covenants, agreements, conditions and its obligations on its part to be kept, observed, complied with, fulfilled, performed and satisfied under any agreement entered into between the Mortgagor and the Mortgagee.

Section 5.14 Not to Encumber

That it will not by way of debenture, mortgage, charge, security interest or otherwise, encumber in any manner whatsoever the Project or the Mortgagor's interest in the Ground Lease, the Sublease or the Mortgaged Property, with any encumbrance ranking, purporting to rank, or capable of being enforced in priority to or pari passu with the security herein granted to the Mortgagee, with the exception of the permitted Underlying Financing (to which this Blanket Mortgage shall be subordinated, if necessary). It is understood and agreed that the Manager's Loan shall be registered against the Project subsequent to the registration of this Blanket Mortgage, but that this Blanket Mortgage shall rank in priority to the Manager's Loan and shall not be subordinated thereto.

Section 5.15 No Transfer of Project

Save as provided for in Section 5.30, that it will not dispose of or transfer by way of sale, conveyance, lease, assignment or otherwise, the Project, or any part thereof, its interest in the Ground Lease, the Sublease, or its interest in the Improvements, or any part thereof, without the prior written consent of the Mortgagee.

Section 5.16 No Transfer of Undertaking

That it will not transfer all or substantially all of its interest in the Mortgaged Property or undertaking with respect thereto to any other Person, whether by way of sale, lease assignment, amalgamation, reorganization, merger or otherwise, without the prior written consent of the Mortgagee.

Section 5.17 Covenant for Quiet Possession

That the Mortgaged Property shall remain free and clear of all assignments, liens, mortgages, charges, hypothecs, security interests and encumbrances whatsoever except for the Permitted Encumbrances, and the Underlying Financing and that upon an Event of Default hereunder, the Mortgagee shall have quiet possession of the Mortgaged Property free from all encumbrances, except for the Permitted Encumbrances and the Underlying Financing.

Section 5.18 Leases

That it will not enter into any Lease except in good faith and on such terms and conditions as have been approved by the Mortgagee, and that it will obtain in each Lease a covenant of the tenant whereby, at the request of the Mortgagee, such tenant will attorn to and become the tenant of the Mortgagee for the then unexpired residue of the term of such Lease; and that it will not accept payment of rentals under any Lease in advance except for the current monthly or quarterly rental period and except for normal security deposits and similar prepayments and further, except for the prepayment to Lakeview by the Mortgagor of rent under the Sublease for the period from October 1, 1984 to December 31, 1995 in the sum of One Million, Six Hundred and Seventy-eight Thousand (\$1,678,000.00) Dollars. Provided that such tenants enter into an agreement to attorn to the Mortgagee, as referred to above, the Mortgagee will enter into a non-disturbance agreement with such tenants pursuant to which the Mortgagee shall allow such tenants the right to peaceably enjoy the leased premises and other rights contained in the Lease with such tenant so long as such tenant is not in default under such Lease. The Mortgagee acknowledges that this Section 5.18 does not apply to the Parking Sublease to the City referred to in Section 5.12(m) or to a Pedestrian Bridge Agreement to be entered into with the City referred to in Section 5.30(a) hereof.

Section 5.19 Certified Rent Rolls

That it will monthly or, as otherwise required by the Mortgagee, deliver to the Mortgagee Certified Rent Rolls and such other reports, data and information with respect to the Leases as may be reasonably required by the Mortgagee.

Section 5.20 Furnishings, Equipment Leases and Conditional Sales

That it will keep the Hotel completely fitted, equipped and furnished in a manner consistent with a first-class hotel and that no furniture, furnishings, fixtures, fittings, machinery, equipment, including, without limitation, floor coverings, material handling equipment, cleaning and engineering equipment, decorations, kitchen equipment and other equipment used for the operation of the Hotel that will become part of the Project by attachment or use as required by the Plans and Specifications or which will be used in connection with the operation of the Hotel shall be or become subject to any lien, charge, security interest or encumbrance other than in favour of the Mortgagee without the Mortgagee's prior written consent. The Mortgagee acknowledges that certain furniture, fixtures and equipment used in connection with the operation of the Hotel and situated upon the Mortgaged Property may be leased by the Mortgagor.

Section 5.21 Construction of the Project

The Improvements, including the Hotel, have been constructed in accordance with the Plans and Specifications, the Ground Lease and the Development Agreement.

Section 5.22 To Maintain Hotel Bedrooms

That it will maintain and operate the Project in such manner that at all times from and after the completion of the Project there shall be available for occupancy by hotel guests the equivalent of 310 bedrooms in the Project.

Section 5.23 Filing of Financial Statements

That it will furnish and deliver to the Mortgagee, no later than one hundred and twenty (120) days after the end of each fiscal year of each of Lakeview Development Ltd. and the Limited Partnership, audited financial statements of Lakeview Development Ltd. or the Limited Partnership, as the case may be, which audited financial statements shall include a balance sheet, a statement of income, a statement of source and application of funds, in each case setting forth comparative figures for the immediately preceding fiscal year, and such additional information or data as the Mortgagee may reasonably require.

Section 5.24 Mortgagee May Perform Covenants

That if the Mortgagor shall fail to perform any covenant on its part herein contained, the Mortgagee may itself perform any of the said covenants capable of being performed by it and, if any such covenant requires the payment or expenditure of money, it may make such payment or expenditure with its own funds or with money borrowed by or advanced to it for such purpose, but shall be under no obligation so to do; and all sums so expended or advanced shall be at once payable by the Mortgagor to the Mortgagee, shall bear interest at the rate of interest as set out in Section 8.12, but no such performance or payment shall be deemed to relieve the Mortgagor from any default hereunder.

Section 5.25 Notice of Default

That it will give the Mortgagee prompt written notice of the occurrence of any Event of Default as soon as it becomes aware or should be aware thereof.

Section 5.26 Notice of Litigation

That it will give the Mortgagee prompt written notice of any action, suit, litigation or other proceeding which is commenced or threatened against the Mortgagor and which if determined against the interest of the Mortgagor would result in a material adverse change in the financial condition or business affairs of the Mortgagor or would have a material adverse effect on or with respect to the Project or the undertaking with respect thereto.

Section 5.27 Notice of Material Change

That it will provide the Mortgagee with prompt written notice of any material adverse change in the financial condition or otherwise of the Mortgagor or of any material loss, destruction, damage of or to the Project.

Section 5.28 Other Information

That it will furnish to the Mortgagee such other information and reports relating to the Mortgaged Property as the Mortgagee may from time to time reasonably require.

Section 5.29 Further Assurances

That it will, at any and all times and at its own expense, do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all and every such further acts, deeds, conveyances, mortgages, transfers and assurances as the Mortgagee shall reasonably require, for the purpose of giving the Mortgagee a valid mortgage, hypothec, charge or security of the nature herein specified upon the Mortgaged Property, and for the better assuring, conveying, mortgaging, hypothecating, assigning, confirming, pledging, charging, ceding and transferring unto the Mortgagee all and singular the hereditaments and premises, estates and property hereby mortgaged, hypothecated, pledged and charged, or ceded and transferred, or intended so to be or which it may hereafter become bound to mortgage, hypothecate, pledge or charge, or cede and transfer, in favour or the Mortgagee.

Section 5.30 Other Agreements entered into by Mortgagor and/or Lakeview

Notwithstanding the other provisions of Section 5 or any other provision of this Mortgage to the contrary, the Mortgagee agrees that:

- (a) Lakeview and, if required, the Limited Partnership may complete, enter into and register, as the case may be,
- (i) the easements, agreements and subleases on terms to be agreed upon by Lakeview and the City and certain third parties, all as provided for in the Interface Agreement;
 - (ii) the Pedestrian Bridge Agreement on terms to be agreed upon by Lakeview and the City. The Mortgagee acknowledges receiving a draft of this Bridge Agreement dated March 28, 1985, revised as of November 27, 1985;
 - (iii) the Sublease of the underground parking to the City as provided for in Section 22 of the Ground Lease, on terms to be agreed upon by Lakeview and the City;
 - (iv) November 1, 1984 Lease Amending Agreement among Lakeview, the City and Citibank Canada;
 - (v) June 10, 1985 Encroachment Agreement with The Regional Municipality of Hamilton-Wentworth; and
 - (vi) August 1, 1985 Agreement to extend the construction time limit to October 3, 1985.
- (b) Although the documents referred to in Section 5.30(a) may be registered after the registration of this Blanket Mortgage, the Mortgagee agrees that they shall be an encumbrance upon the Lands prior to this Mortgage in the same manner and to the same effect as if they had been dated and registered prior to this Mortgage.

ARTICLE VI - INSURANCE

Section 6.01 Covenant to Insure

The Mortgagor covenants and agrees that it will insure, and will keep insured, at its own expense, the Improvements and all other insurable property forming part of the Mortgaged Property at all times during the term hereof in strict compliance with the terms and conditions respecting insurance contained in the Ground Lease.

Section 6.02 Application of Proceeds and Endorsements

Subject to the provisions of the Ground Lease and all Underlying Financing, the Mortgagor shall cause the insurance money under all policies required hereunder to be made payable to the City, the mortgagees of any Underlying Financing, the Mortgagee and the Mortgagor, as their interests may appear. The Mortgagee, subject to the above-mentioned agreements, may have such insurance money applied, at the election of the Mortgagee, in reinstatement of the Mortgaged Property or towards repayment of the Indebtedness Secured Hereby to the maximum of the Indebtedness Secured Hereby whether then due or not. The Mortgagor shall from time to time do, sign, execute or endorse all transfers, assignments, cheques, loss claims, receipts, writings and things necessary or desirable for the purposes aforesaid; and for such purposes, the Mortgagor hereby irrevocably appoints the Mortgagee its attorney to do, sign, execute and endorse such transfers, assignments, cheques, loss claims, receipts, writings and things in the name of the Mortgagor and on its behalf as the Mortgagee may deem necessary or advisable.

Section 6.03 Premiums

The Mortgagor shall duly and reasonably pay or cause to be paid all premiums and other sums of money payable for maintaining any such insurance as aforesaid.

Section 6.04 Notice of Cancellation

The policies covering the Mortgaged Property shall contain "mortgage clauses" whereby the insurer agrees that the proceeds are payable to the Mortgagee as hereinbefore provided, that the policies are to remain in full force

notwithstanding anything contained in or omitted from the application therefor, that such insurance will not be invalidated or affected by any act or omission of any person other than the Mortgagee and that it will not be cancelled or terminated and will not expire without at least thirty (30) days notice in writing to the Mortgagee, or providing to this effect to the extent from time to time available from insurers.

Section 6.05 Renewals

The Mortgagor will, at least 15 days prior to the expiry of any insurance policy, deliver to the Mortgagee a renewal receipt, binder or new policy (or a certified copy of such renewal receipt, binder or new policy) replacing such expiring insurance or otherwise satisfy the Mortgagee that such insurance is being renewed and will deposit or otherwise deal with all such policies and contracts of insurance and renewals and binders in such places and manner as the Mortgagee may from time to time require and will keep the Mortgagee informed of any change or alteration in the property of the Mortgagor material to the insurance coverage and will furnish the Mortgagee with particulars of all insurance covering the Mortgaged Property, or any part thereof. Should the Mortgagor fail to effect such insurance, and make the same payable to the Mortgagee as herein provided for and to keep the same in force or to exhibit or deliver any such policies, contracts of insurance, renewals, binders or receipts (or certified copies thereof) as aforesaid in the manner and within the time period herein set out, the Mortgagee or other person or persons acting through the Mortgagee may effect such insurance (in which case the Mortgagor shall immediately repay to the Mortgagee on demand the amount expended, together with interest as set out in Section 8.12).

Section 6.06 Losses

All monies received by the Mortgagor, the Mortgagee or the Mortgagor and the Mortgagee jointly, under any policy or contract of insurance effected pursuant to the terms of this Blanket Mortgage or required to be effected pursuant to this Blanket Mortgage or otherwise effected by the Mortgagor or the Mortgagee shall, subject to the rights of the City, the mortgagees of any Underlying Financing, be paid to the Mortgagee.

Section 6.07 Proceeds in Accordance with Ground Lease

Notwithstanding any other provision in this Section 6 or this Blanket Mortgage to the contrary, it is understood and agreed that proceeds of insurance policies shall be payable and utilized in accordance with and subject to the insurance provisions of the Ground Lease.

ARTICLE VII - TAXES

Section 7.01 Payment of Taxes

The Mortgagor covenants and agrees that it will pay or cause to be paid the Taxes as and when the same become due and payable and that it will exhibit to the Mortgagee forthwith, when required, the receipts and vouchers establishing such payment or such other evidence of payment as the Mortgagee may require and will duly observe and conform to all valid requirements of any governmental or municipal authority relative to any of the Mortgaged Property, and all covenants, terms and conditions upon or under which any of the Mortgaged Property is held.

Section 7.02 Mortgagor to Pay Taxes to Mortgagee

(a) Whenever and so long as the Mortgagee so requires, the Mortgagor shall, on the first day of each month of the term hereof, pay to the Mortgagee, in addition to all other monies hereby required to be paid by the Mortgagor to the Mortgagee or otherwise, such sum as the Mortgagee may from time to time estimate to be required in order to provide funds sufficient to pay in full the Taxes in each year at the time when such Taxes or the first installment thereof becomes payable and shall transmit to the Mortgagee all tax bills and other notices relative to the imposition of Taxes, forthwith after receipt thereof by it.

(b) All payments so made by the Mortgagor to the Mortgagee pursuant to this subsection shall, at the option of the Mortgagee, be either credited

to an account relating to this Blanket Mortgage on the Mortgagee's books of account (as to which account the Mortgagee shall not be a trustee) or applied against the Principal Sum or other monies owing or secured hereunder.

(c) If and so long as the Mortgagee requires such additional payments to be made, and the Mortgagor shall have made the same, the Mortgagee shall, so long as there is no default hereunder, pay the amount of all Taxes as they fall due or at such earlier time as the Mortgagee deems fit but nothing herein contained shall obligate the Mortgagee to pay such Taxes more often than yearly, and the amount thereby expended shall be debited against the said tax account to the extent that the amount in the said tax account is sufficient and the Mortgagee may, at its option, either debit to the said tax account or add to the Principal Sum, the amount, if any, by which the said tax account is insufficient.

(d) Any debit balance from time to time in the said tax account shall bear interest at the same rate calculated in the same manner as the Principal Sum and shall, together with such interest, be secured under the terms of this Blanket Mortgage, but nothing herein contained shall render the Mortgagee liable to allow or pay interest on any credit balance from time to time in the said tax account.

(e) The amount, if any, by which the aggregate of all Taxes which have been paid by the Mortgagee exceeds at any time, and from time to time, the aggregate of all payments which have been made by the Mortgagor to the Mortgagee pursuant to this Section 7.02 shall be paid by the Mortgagor forthwith on demand therefor at any time and from time to time.

ARTICLE VIII - DEFAULT AND ENFORCEMENT

Section 8.01 Events of Default

The security hereby constituted shall become enforceable, subject to the terms herein contained, in each and every of the following events ("Events of Default"):

- (a) if the Mortgagor fails to perform, fulfill or satisfy, or otherwise is in default under or is in breach of, any of the terms, conditions, provisions, covenants or agreements contained or referred to herein, including, without limitation:
 - (i) the failure of the Mortgagor to pay, when due, any Principal Sum, interest and any other monies owing to the Mortgagee hereunder or Indebtedness Secured Hereby; and/or
 - (ii) the failure of the Mortgagor to perform, fulfill or satisfy each of the covenants, terms and conditions, subject to Section 4.01 hereof, contained in the Underlying Financing, the Manager's Loan, the Ground Lease, the Sublease, the Development Agreement, the Management Agreement and the Interface Agreement;

and such failure or default remains unremedied for the lesser of the time provided for in such agreement for the curing of such default and Seven (7) business days after notice to remedy is given by the Mortgagee;

- (b) if the Mortgagor fails to carry out, satisfy, observe or perform any covenant, term or condition of any other security document, instrument or agreement entered into between the Mortgagor and the Mortgagee, or in any security document, instrument or agreement entered into by the Mortgagor and delivered to the Mortgagee, granted by the Mortgagor to the Mortgagee pursuant thereto, whether secured hereby or otherwise, and such failure or default remains unremedied for Seven (7) business days after notice to remedy is given by the Mortgagee, or such shorter time as may be provided for in such agreement for the curing of such default, or if any of the warranties and representations made by the Mortgagor in any agreement entered into between the Mortgagor and the Mortgagee, or

in any other document, instrument, material, data and information provided to the Mortgagee are inaccurate, false or misleading;

- (c) if the Hotel, whether or not construction has been completed, is condemned, or if it is destroyed or rendered substantially unfit for the purposes for which it is intended, by any cause whatsoever;
- (d) if any action is taken to dissolve the Limited Partnership;
- (e) if any encumbrancer shall take possession of the Project, or any part thereof, or if a distress, execution or similar process be levied or enforced against the Project or any part thereof;
- (f) if the Mortgagor shall permit any sum which has been admitted as due by the Mortgagor or is not disputed to be due by it and which forms or is capable of being made a charge upon any of the Mortgaged Property in priority to or pari passu with the charge created and secured by this Blanket Mortgage to remain unpaid for Thirty (30) days after proceedings have been taken to enforce same;
- (g) if any execution, sequestration or extent or any other process of any court becomes enforceable against the Mortgagor and if in the opinion of the Mortgagee any of the foregoing impairs the ability of the Mortgagor to repay any amounts due to the Mortgagee hereunder;
- (h) if the Mortgagor ceases or threatens to take steps to cease to carry on the operation of the Hotel, its business or a substantial part thereof;
- (i) if the Mortgagor shall not have remedied any default under the Underlying Financing which it is the obligation of the Mortgagor to fulfill, or under the Ground Lease, the Sublease or the Interface Agreement, within the period of time therein prescribed;
- (j) if the Manager ceases assisting the Mortgagor in the planning, decorating, furnishing and equipping of the Hotel or if the Management Agreement is terminated without the prior written consent of the Mortgagee;
- (k) if, prior to the expiry of the original term of the Ground Lease or the Sublease, the Ground Lease or the Sublease is terminated for any reason whatsoever.

Section 8.02 Acceleration on Default

In case the Security Hereby Constituted shall have become enforceable as hereinbefore provided, the Mortgagee may, in its discretion, declare the Indebtedness Secured Hereby to be due and payable and the same shall forthwith become immediately due and payable to the Mortgagee, anything herein to the contrary notwithstanding, and the Mortgagor shall forthwith pay to the Mortgagee the Indebtedness Secured Hereby.

Section 8.03 Remedies and Enforcement by Mortgagee

In the case of any Event of Default, or whenever the Security Hereby Constituted has become enforceable and so long as it remains enforceable, the Mortgagee may, subject to the terms of the Management Agreement:

- (a) by its officers, agents or attorneys immediately enter into and upon and take possession of the Mortgaged Property or any part thereof with power to exclude the Mortgagor and its agents and servants therefrom, and to take possession of all or any documents and/or records evidencing or relating to the Mortgaged Property or any part thereof, and, whether or not the Mortgagee has done any of the foregoing, may sell, lease or otherwise

dispose of the Mortgaged Property or any part thereof either as a whole or in separate parcels, at public auction, by public tender or by private sale, with or without notice, either for cash or upon credit or partly for one and partly for the other, and upon such terms and conditions as the Mortgagee may determine and the Mortgagee may rescind or vary any contract or other writing relating to the Mortgaged Property or the sale, lease or other disposition thereof, and may again sell, lease or otherwise dispose of the Mortgaged Property with or under any of the powers conferred herein; and the Mortgagee may execute and deliver to any purchaser or lessee of the Mortgaged Property or any part thereof, or to any other Person, good and sufficient deeds and documents for the same, the Mortgagee being irrevocably constituted the attorney of the Mortgagor for the purpose of making any such sale, lease or other disposition and executing such deeds and documents;

- (b) preserve and maintain the Mortgaged Property and make such repairs, replacements and additions thereto as it deems appropriate; take all such steps as the Mortgagee may consider necessary or desirable for the purposes of completing the Project and for such purposes to enter into all such contracts and undertake all such obligations as the Mortgagee may determine, and to give security therefor upon the Mortgaged Property or any part thereof; provided that the Mortgagee shall not be under any obligation to complete the Project; and enjoy and exercise all powers necessary to the performance of all functions provided for in this subsection, including, but not in limitation thereof, the power to purchase on credit, borrow money in the Mortgagor's or its own name, advance its own monies at the rate of interest set out in Section 8.12 and to enter into contracts and undertake obligations for the foregoing purposes upon the security of the Mortgaged Property;
- (c) receive and collect the rents, incomes and profits derived from the Mortgaged Property and all other monies due and becoming due in connection with the Mortgaged Property and pay therefrom all expenses of maintaining, preserving, protecting and operating the Mortgaged Property and all charges against the Mortgaged Property ranking in priority to this Blanket Mortgage or payment of which may be necessary to preserve or protect the Mortgaged Property; renew from time to time any or all of the Leases; and enjoy and exercise all powers necessary to the performance of all functions provided for in this subsection, including, but not in limitation thereof, the power to purchase on credit, borrow money in the Mortgagor's or its own name, advance its own monies at the rate of interest set out in Section 8.12 and to enter into contracts and undertake obligations for the foregoing purposes upon the security of the Mortgaged Property. Without limiting the generality of the foregoing and whether or not the Mortgagee shall have entered into or taken possession of the Mortgaged Property or any part thereof, the Mortgagee shall have the right to give notice either in its own name as Mortgagee or in the name of the Mortgagor or to require the Mortgagor to give notice to tenants under all or any of the Leases requiring that all rental and other payments falling due under such Leases shall, until further notice, be paid to the Mortgagee;
- (d) grant extensions of time and other indulgences, take and give up securities, accept compositions, grant releases and discharges and otherwise deal with the Mortgagor, debtors of the Mortgagor and others and with the Mortgaged Property and any other security as the Mortgagee may see fit;
- (e) by instrument in writing appoint any Person to be a receiver (which term shall for the purposes of this Article VIII include a receiver and manager and any other officer or person with similar powers) of the Mortgaged Property or of any part thereof and may remove any receiver so appointed and appoint another in his stead and any such receiver so appointed shall have the power:

- (i) to enter upon, take possession of and to use and to occupy the Mortgaged Property or any part thereof;
- (ii) to carry on all or any part of the business of the Mortgagor relating to the Mortgaged Property, including, without limitation, taking such steps as may be necessary or desirable to complete the Project and to operate and carry on the business of the Mortgagor relating to the Mortgaged Property, including the Hotel and Shopping Centre and all other Improvements;
- (iii) to borrow money on the security of the Mortgaged Property in priority to this Blanket Mortgage for the purpose of the maintenance, preservation or protection of the Mortgaged Property or any part thereof or for carrying on all or any part of the business of the Mortgagor relating to the Mortgaged Property, including the completion of the Project;
- (iv) to sell, lease or otherwise dispose of the whole or any part of the Mortgaged Property at public auction, by public tender or by private sale, with or without notice, either for cash or upon credit, at such time and upon such terms and conditions as the receiver may determine;
- (v) to rent any portion of the Mortgaged Property which may become vacant for such term and subject to such provisions as he may deem advisable or expedient and in so doing, every such receiver shall act as the attorney or agent of the Mortgagor and he shall have authority to execute under seal any lease of such premises in the name of and on behalf of the Mortgagor and the Mortgagor undertakes to ratify and confirm whatever any such receiver may do in the Premises;
- (vi) to manage, operate, amend, repair, alter or extend the Mortgaged Property or any part thereof in the name of the Mortgagor for the purpose of securing the payment of rental from the Mortgaged Property or any part thereof;
- (f) exercise any of the other rights to which the Mortgagee is entitled as holder of this Mortgage, including the right to take proceedings in any court of competent jurisdiction for the appointment of a receiver or receiver and manager, for the sale of the Mortgaged Property or any part thereof, for foreclosure, to enforce any covenant contained herein, enforce the payment of principal, interest and other monies forming part of the Indebtedness Secured Hereby and the right to take any other action, suit, remedy or proceeding authorized or permitted under this Blanket Mortgage or by law or in equity in order to enforce the Security Hereby Constituted.

Section 8.04 Surrender by Mortgagor

The Mortgagor binds and obliges itself to yield up possession of the Mortgaged Property or any part thereof on demand whenever the Mortgagee shall have a right of entry under the provisions of this Blanket Mortgage and agrees to put no obstacle in the way of, but to facilitate by all legal means the actions of the Mortgagee hereunder and not to interfere with the carrying out of the powers hereby granted to it. The Mortgagor hereby binds itself in said event to consent to any petition or application presented to the court by the Mortgagee in order to effectuate the intent of this Blanket Mortgage and the Mortgagor shall not, after receiving due notice from the Mortgagee that it has taken possession of the Mortgaged Property and undertaking by virtue of these presents, continue in the said property and undertaking, unless with the express written consent and authority of the Mortgagee, and shall forthwith, by and through its officers and directors, execute such documents and transfers as may be necessary to place the Mortgagee in legal possession of the Mortgaged Property and undertaking and after receipt of such notice all the powers and functions, rights and privileges of each and every of the directors and

officers of the Mortgagor shall cease and determine with respect to the Mortgaged Property unless specifically continued in writing by the Mortgagee, or unless the Mortgaged Property shall have been restored to the Mortgagor by the Mortgagee.

Section 8.05 Waiver of Default

No consent or waiver, express or implied, by the Mortgagee to or of any breach or default by the Mortgagor in the performance of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by it of its obligations hereunder. Failure on the part of the Mortgagee to complain of any act or failure to act of the Mortgagor or to declare the Mortgagor in default, irrespective of how long such failure continues, shall not constitute a waiver by the Mortgagee of its rights hereunder.

Section 8.06 Remedies Cumulative

No remedy herein conferred upon or reserved to the Mortgagee is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now existing or hereafter to exist by law or by statute as modified herein. Without limiting the generality of the foregoing, the taking of judgment or judgments on any of the covenants herein contained shall not operate as a merger of the said covenants or affect the right of the Mortgagee to interest as provided herein.

Section 8.07 Protection of Mortgagee and Remuneration of Receiver

The Mortgagee shall not, nor shall any receiver appointed by it, be responsible or liable, upon an enforcement of its right hereunder, for any loss occasioned by any demand, collection, enforcement, sale or other realization or the failure to so demand, collect, enforce, sell or otherwise realize upon the Mortgaged Property or any part thereof, and any failure to protect the Mortgaged Property or any part thereof from depreciating in value, for any debts contracted by it, for damages to persons or property, or for salaries or non-fulfillment of contracts during any period wherein the Mortgagee or such receiver shall manage the Mortgaged Property or any part thereof upon or after entry, as herein provided and the Mortgagee shall not be bound to do, observe or perform or to see the observance or performance by the Mortgagor of any of the obligations herein imposed upon the Mortgagor.

Section 8.08 Judgment Against Mortgagor

The Mortgagor covenants and agrees with the Mortgagee that, in the case of any judicial or other proceedings to enforce the Security Hereby Constituted, judgment may be rendered against the Mortgagor in favour of the Mortgagee for any amount which may remain due in respect of the Indebtedness Secured Hereby after the application to the payment thereof of the proceeds of any sale of the Mortgaged Property or any part thereof.

Section 8.09 No Inquiry

No person dealing with the Mortgagee or its agents shall be concerned to inquire whether the powers which the Mortgagee or such agents are purporting to exercise have become exercisable, or whether any money remains due upon the security of this Blanket Mortgage, or as to the necessity or expediency of the stipulations and conditions subject to which any sale shall be made, or otherwise as to the propriety or regularity of any sale or of any other dealing by the Mortgagee with the Mortgaged Property or any part thereof or to see to the application of any money paid to the Mortgagee; and such dealings shall be deemed, insofar as regards the safety and protection of such person to be within the powers hereby conferred and to be valid and effectual accordingly.

Section 8.10 Expenses

The Mortgagor shall pay to the Mortgagee upon demand the amount of all expenses (including legal fees and disbursements on a solicitor and client basis) incurred in recovering any Indebtedness Secured Hereby or in enforcing the Security Hereby Constituted, including but not limited to, the expenses

incurred in connection with the repossession, holding, repairing, processing, preparing for disposition, and disposing of any of the Mortgaged Property (including legal fees and disbursements on a solicitor and client basis), with interest thereon from the date of the incurring of such expenses at the rate of Three (3%) percent per annum above the Prime Rate, calculated daily and compounded monthly. Whether any action or any judicial proceedings to enforce the aforesaid payments has been taken or not, the amount owing to the Mortgagee under this section shall be added to the Indebtedness Secured Hereby.

Section 8.11 Receiver Agent of the Mortgagor

The Mortgagor hereby agrees that any receiver appointed by the Mortgagee:

- (a) shall be the irrevocable agent or attorney of the Mortgagor for the collection of all rents falling due in respect of the Mortgaged Property or any part thereof and in respect of any tenancies of the Mortgaged Property;
- (b) may, in the discretion of the Mortgagee and by writing under its corporate seal, be vested with all or any of the powers and discretions of the Mortgagee contained herein;
- (c) shall, so far as concerns the responsibility of his acts or omissions, be deemed the agent or attorney of the Mortgagor and in no event the agent of the Mortgagee.

Section 8.12 Borrowed Money

All monies borrowed or advanced pursuant to this Article VIII or Section 4.03 shall be repaid by the Mortgagor forthwith upon demand and until repaid, shall bear interest at the rate of Three (3%) percent above the Prime Rate, calculated daily and compounded monthly; and all such monies together with interest as aforesaid, shall form a charge on the Mortgaged Property in priority to the Indebtedness Secured Hereby.

Section 8.13 Application of Proceeds of Sale or Realization

The monies arising from the possession by the Mortgagee of the Mortgaged Property or from any sale or realization of the whole or any part of the Mortgaged Property (except by foreclosure), whether under any sale by the Mortgagee, the receiver appointed by the Mortgagee pursuant to Article VIII, by any judicial proceedings or otherwise, shall be applied as follows:

- (i) first, to pay or reimburse to the Mortgagee all costs, charges, expenses, fees, advances and compensation of the Mortgagee incurred in taking, recovering and keeping possession of the Mortgaged Property or generally in any other proceedings taken hereunder in connection with or to realize upon the security hereof, and to pay all of the remuneration of the receiver referred to in Article VIII and all costs and expenses properly incurred by such receiver;
- (ii) second, to pay all Taxes and any other charges, liens or encumbrances ranking in priority to the security of this Blanket Mortgage;
- (iii) third, to pay all amounts of money borrowed or advanced by the Mortgagee or the receiver appointed pursuant to Article VIII hereof together with any interest thereon;
- (iv) fourth, to pay any other Indebtedness Secured Hereby; and
- (v) fifth, the surplus (if any) shall be paid to the Mortgagor or its assigns.

Section 8.14 Mortgagee Appointed Attorney

The Mortgagor hereby irrevocably appoints the Mortgagee to be the attorney of the Mortgagor in the name and on behalf of the Mortgagor to execute and do any deeds, transfers, conveyances, assignments, assurances and

things which the Mortgagor ought to execute and do, and has not executed or done, under the covenants and provisions contained in this Blanket Mortgage and generally to use the name of the Mortgagor in the exercise of all or any of the powers hereby conferred on the Mortgagee.

Section 8.15 Mortgagor to Execute Confirmatory Deed

In case of any sale under the provisions of this Article, whether by the Mortgagee or under judicial proceedings, the Mortgagor agrees that it will execute and deliver to the purchaser on demand any instrument reasonably necessary to confirm to the purchaser the title of the property so sold, and, in case of any such sale, the Mortgagee is hereby irrevocably authorized by the Mortgagor to execute on its behalf and in its name any such confirmatory instrument.

Section 8.16 Blanket Mortgage Subject to Ground Lease

Notwithstanding any provision herein contained to the contrary, it is understood and agreed that this Blanket Mortgage is subject to the rights of the City, as lessor, under the Ground Lease and in particular to the right of the City to acquire title to the Improvements (as that capitalized term is defined in the Ground Lease) upon expiration or termination of the Ground Lease in accordance with the terms thereof.

Section 8.17 Acknowledgement Regarding Interface Agreement

Notwithstanding any provision contained herein to the contrary, in the event that the Mortgagee shall succeed to the interest of the Mortgagor in the Mortgaged Property by way of foreclosure, or otherwise takes possession thereof, or if the Mortgaged Property is sold pursuant to a power of sale hereunder, it is understood and agreed that the Mortgagee or any purchaser succeeding to the interest of the Mortgagee in the Mortgaged Property shall assume all terms and obligations on the part of the Mortgagor (or either of the parties comprising the Mortgagor) under the Interface Agreement and any agreement, easement, lease or sublease contemplated by the said Interface Agreement.

ARTICLE IX - EXPROPRIATION

Section 9.01 Expropriation

Subject to the rights of the City under the Development Agreement and Ground Lease, and subject to the rights of the mortgagees of the Underlying Financing, in the event that all or any part of the Mortgaged Property be expropriated or taken under any power of eminent domain or condemnation or similar power, the Mortgagee shall release the property so taken upon receipt by the Mortgagee of:

- (a) a statutory declaration of an officer of either Lakeview or 127089 fully describing the property taken and the amount of the compensation to be received therefor and stating either that such amount has been determined by arbitration or judicial proceedings or that such amount is, in the opinion of said officer, fair and reasonable in the circumstances;
- (b) the compensation for such property; and
- (c) an opinion of Counsel for the Mortgagee stating that such property has been expropriated or taken as aforesaid.

The Mortgagee shall have the right to be represented by Counsel in any proceedings in respect of the expropriation or taking of any part of the Mortgaged Property.

ARTICLE X - GENERAL PROVISIONS

Section 10.01 Notices

Any notice, demand, request, consent, agreement or approval which is or may be required to be given pursuant to this Blanket Mortgage shall be in writing and shall be sufficiently given or made if delivered, in the case of

the Mortgagor, to any director or officer of each of Lakeview and 127089, and in the case of the Mortgagee, to any director or officer of the Mortgagee, or (except in the case of an actual or pending disruption of postal service) mailed by registered mail, and in the case of:

- (a) the Mortgagor addressed to it at:

Lakeview Development Ltd.
6th Floor - 185 Carlton Street
Winnipeg, Manitoba
R3C 3J1

Attention: Mr. Jack Levit

- and -

127089 Canada Ltd.
6th Floor - 185 Carlton Street
Winnipeg, Manitoba
R3C 3J1

Attention: Mr. Jack Levit

Copy to: McJannet, Weinberg, Rich
5th Floor - 185 Carlton Street
Winnipeg, Manitoba
R3C 3J1

Attention: Mr. J.T. McJannet, Q.C.

- (b) the Mortgagee addressed to it at:

Lakeview Development of Canada Ltd.
6th Floor - 185 Carlton Street
Winnipeg, Manitoba
R3C 3J1

Attention: Mr. Jack Levit

The Mortgagee and the Mortgagor, may, from time to time, change its address or stipulate another address from the address described above in the manner provided in this paragraph. The date of receipt of any such notice, demand, request, consent, agreement or approval, if delivered as aforesaid, shall be deemed to be the date of delivery thereof, or if mailed as aforesaid, the second Business Day following the date of mailing.

Section 10.02 Amendments

This Blanket Mortgage may not be modified or amended except by written agreement between the Mortgagee and the Mortgagor.

Section 10.03 Assignment

The Mortgagee may assign, transfer, negotiate, pledge or otherwise hypothecate this Blanket Mortgage or any of its rights and security hereunder or any part hereof, and all rights and remedies of the Mortgagee in connection with the interest so assigned contained herein shall be enforceable against the Mortgagor by such assignee or transferee as the same would have been by the Mortgagee but for such assignment.

Section 10.04 Survival

All covenants, undertakings, agreements, representations and warranties made by the Mortgagor in any agreement entered into between the Mortgagor and the Mortgagee and in any certificates, reports, statements, information, data, documents, or instruments delivered to the Mortgagee shall survive the execution, registration and delivery of this Blanket Mortgage and shall continue in full force and effect.

Section 10.05 Successors and Assigns

This Blanket Mortgage and each of the terms, conditions and covenants herein contained shall enure to the benefit of the successors and assigns of the Mortgagee and be binding upon the respective successors and permitted assigns of the Mortgagor.

Section 10.06 No Obligation to Advance

Neither the issue, nor the delivery, nor the registration of this Blanket Mortgage shall obligate the Mortgagee to advance any money to the Mortgagor nor shall the advance of monies by the Mortgagee to the Mortgagor bind the Mortgagee to advance further monies, but nevertheless, the charge hereby created shall take effect forthwith upon the execution of these presents by the Mortgagor and the legal and other fees and disbursements, if not paid by the Mortgagor, are to be secured by the charge hereby created whether or not the whole or any balance of the principal sum of this Mortgage remains not advanced and the said fees and disbursements shall be payable forthwith without demand therefor with interest at the rate provided for in this Mortgage, and in default, all remedies hereunder and at law and in equity shall be exercisable.

Section 10.07 Discharge

Upon the Indebtedness Secured Hereby being repaid in full and provided that this Blanket Mortgage is no longer required by the Mortgagee as security, the Mortgagee shall, within a reasonable time following the Mortgagee's receipt of a written request from the Mortgagor, and at the sole cost and expense of the Mortgagor, reassign the Mortgaged Property and deliver a discharge of this Blanket Mortgage to the Mortgagor.

Section 10.08 Receipt of Copy

The Mortgagor acknowledges having received a copy of this Blanket Mortgage.

ARTICLE XI - REFINANCING

11.01 The Mortgagor agrees that it shall refinance this Blanket Mortgage at any time during the term hereof at the request and expense of the Mortgagee, provided that 127089 may refuse, on behalf of the Mortgagor, to refinance this Blanket Mortgage, or may impose upon the Mortgagee such conditions as it deems necessary in respect of such refinancing, if the debt service to the Limited Partnership calculated on a cash basis disregarding accrued interest and interest buy-downs payable under the proposed new mortgage exceeds the interest cost payable by the Limited Partnership to the Mortgagee under this Blanket Mortgage. Notwithstanding the aforesaid, the Mortgagor shall not refinance this Blanket Mortgage or any underlying mortgages or debentures authorized under this Blanket Mortgage if such refinancing would result in a projected negative cash flow to the Mortgagor.

IN WITNESS WHEREOF LAKEVIEW DEVELOPMENT LTD. and 127089 CANADA LTD., as General Partner for King Street Hamilton Hotel Limited Partnership, have caused their corporate seals to be hereunto affixed and this Blanket Mortgage to be signed by their authorized officers or directors as of the 14th day of September, 1985.

LAKEVIEW DEVELOPMENT LTD.

Per: _____

Per: _____

127089 CANADA LTD, as General Partner
for King Street Hamilton Hotel Limited
Partnership

Per: _____

Per: _____

SCHEDULE "A"

THE "LANDS"

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Hamilton in the Regional Municipality of Hamilton-Wentworth in the Province of Ontario. And being composed of Part of Lots 1 and 2 and the unnumbered lot in Block 1, part of Lots 1 and 2 and the unnumbered lot in the Block bounded by Market, MacNab, King and Park Streets all according to DAVID KIRKENDALL SURVEY registered in the Land Registry Office for the Registry Division of Wentworth as Plan No. 39. And Part of Park Street immediately east of the said Block 1 (said Park Street now closed by the City of Hamilton By-Law No. 81-14 dated December 9, 1980, and registered in the said Land Registry Office as Instrument No. 174954CD) and which said parcel may be more particularly described as all of Part 1 according to a reference plan received and deposited in the said Land Registry office on April 22, 1980, as Plan No. 62R-5316.

Being the whole of Parcel 1 - 2 in the Leasehold Register for Section W-39(c).

SCHEDULE "B"

PERMITTED ENCUMBRANCES

1. 199965 AB - Agreement
2. 168766 CD - Amendment to Agreement
3. 271066 CD - Ground Lease
4. 292836 CD - Agreement
5. 292837 CD - Agreement
6. 292838 CD - Agreement
7. 292839 CD - Agreement
8. 292840 CD - Agreement
9. 153111 LT - Notice of Sublease
10. 161659 LT - Notice of Agreement
11. 163466 LT - Charge
12. 164281 LT - Notice of Agreement
13. 164282 LT - Notice of Agreement
14. 164283 LT - Notice of Agreement
15. 164284 LT - Postponement of Charge
16. 164285 LT - Postponement of Charge
17. 164286 LT - Postponement of Charge
18. 164287 LT - Notice of Agreement
19. 164288 LT - Notice of Assignment of Rents
20. 164362 LT - Notice of Assignment of Agreements
21. 164371 LT - Notice of Agreement
22. 164372 LT - Postponement of Charge

Any and all other instruments, agreements and documents referred to in
Section 5.12 of this Blanket Mortgage:

Undertaking executed by the Mortgagor in favour of the City dated August 23,
1985;

Amending Agreement among the City, Lakeview and the Limited Partnership,
dated August 21, 1986.

Schedule "B" 11

LAKEVIEW DEVELOPMENT LTD.
AND 127089 CANADA LTD.

(Incorporated under the laws of Canada)

Formally dated as of the 14th day of August, 1985.

1. 127089 CANADA LTD. (hereinafter called "127089"), a body corporate having its head office in Winnipeg, in the Province of Manitoba, as General Partner of the King Street Hamilton Hotel Limited Partnership (hereinafter called the "Partnership") and LAKEVIEW DEVELOPMENT LTD. (hereinafter called "Lakeview", 127089 and Lakeview hereinafter called the "Corporations") for value received, hereby acknowledge their indebtedness and promise to pay to LAKEVIEW DEVELOPMENT OF CANADA LTD., or order (hereinafter called the "Holder"), a Federal corporation incorporated under The Canada Business Corporations Act, having an office at 6th Floor, 185 Carlton Street, Winnipeg, Manitoba, R3C 3J1, the sum of SEVEN HUNDRED AND FIFTY THOUSAND (\$750,000.00) CANADIAN DOLLARS, which sum shall be deemed to be increased by deferred interest as hereinafter provided, and which sum shall be payable on or before August 13, 1998, on the terms and conditions hereinafter set out (and as further set out under the terms of a promissory note (the "Promissory Note") dated August 14, 1985 in the principal amount of \$750,000.00, a copy of which is attached hereto as Schedule "A"), at the offices of LAKEVIEW DEVELOPMENT OF CANADA LTD., 6th Floor, 185 Carlton Street, Winnipeg, Manitoba, R3C 3J1,, or such other place as the Holder may designate from time to time, together with interest on the principal amount outstanding from time to time equal to the then current Prime Rate. "Prime Rate" means the annual rate of interest charged and generally announced by the Royal Bank of

Canada from time to time as being its Prime Rate for substantial Canadian dollar demand loans in Canada, and shall be payable monthly in arrears and calculated based upon a 365/366 day year and the actual days elapsed. Notwithstanding the foregoing, during the first thirty-six (36) months of the term hereof, such interest shall accrue but payment thereof shall be deferred, the aggregate thereof from time to time being deemed to increase the aggregate principal amount owing, to be subject to interest as otherwise herein provided, and to be due and payable by the Corporations on or before the term date set forth above. Beginning with the thirty-seventh (37th) month of the term hereof, the aggregate principal amount hereof (including deferred interest as aforesaid) shall be amortized and repaid in 120 level monthly installments due and payable in arrears at the same time as the interest payment hereunder is due and payable.

If any payment hereunder would otherwise be due on a day which is not a day on which banks are open for business in Winnipeg, it shall be due on the next day which is such a business day.

Provided that if any sum due for interest is not paid on its due date, it shall itself bear interest from its due date until paid at the interest rate hereinabove set out.

Provided that the Corporations shall prepay the unpaid principal balance of this Security in the amount of any cash proceeds received by the Corporations or the Partnership from the sale or issuance of any

additional security or other interest in the Corporations or the Partnership, or in the amount of any net cash proceeds from the sale of any asset of the Partnership or the Corporations or used in or in connection with the operation of the Sheraton Hamilton Hotel (hereinafter referred to as the "Hotel") sold in an asset sale solely for cash, promptly upon receipt of any such cash proceeds.

2. This Debenture is hereinafter referred to as the "Security".

3. The Security granted by the Corporations to the Holder secures payment and satisfaction of any and all obligations, indebtedness and liability of the Corporations to the Holder (including interest thereon) present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed, wheresoever and howsoever incurred and whether each or either of the Corporations be bound alone, with each other or with another or others and whether as principal or surety, including, without limitation, the obligations of the Corporations under the terms of this Debenture, the Promissory Note and that certain loan agreement (the "Loan Agreement") dated August 14, 1985, a copy of which is attached hereto as Schedule "B".

4. As security for the payment of the principal and interest of this Security and of all other monies from time to time owing hereunder, the Corporations hereby:

- (a) mortgage and charge as and by way of a fixed and specific mortgage and charge to and in favour of the Holder the following: the Corporations' leasehold interest in the real property by virtue of a Ground Lease of the real property between the Corporation of the City of Hamilton and Lakeview dated May 3, 1983, and registered as Instrument No. 271066 C.D., and a sublease of the real property between Lakeview as Sub-Lessor and the Corporations as Sub-Lessee made as of October 1, 1984, and the Corporations' interest in the fixtures and improvements on such real property, commonly known as the Sheraton Hamilton Hotel (the "Hotel"), such real property being located in Hamilton, Ontario, and being legally described as set forth in Schedule "C" attached hereto (hereinafter referred to as the "lands"), subject only to those matters set forth in Schedule "D" attached hereto (hereinafter referred to as the "permitted encumbrances") and subject and subordinate to prior liens and mortgages securing a total indebtedness (including indebtedness secured by permitted encumbrances) not to exceed TWENTY-TWO MILLION, EIGHT HUNDRED THOUSAND (\$22,800,000.00) CANADIAN DOLLARS; and
- (b) grant a security interest in and mortgage and charge all estate right, title and interest of the Corporations in all moveable property, goods and chattels, machinery,

automotive and other equipment, furniture, fixtures and improvements, accessories, appliances and all other goods and chattels located at the Hotel or used in the operation thereof, together with any and all additions to such goods and chattels and moveable property which may hereafter during the currency of this Security be at any time purchased for use in the Hotel or in the operation thereof or be located in the Hotel either in addition to or in substitution therefor, and all proceeds therefrom as such term is defined in The Personal Property Security Act (Ontario);

- (c) grant a security interest in all its other assets and property for the time being, both real and personal, now owned or hereafter acquired (other than those parts of the specifically mortgaged premises which have been validly and effectively subjected to the fixed and specific mortgage and security interest hereinbefore created) and all proceeds therefrom as such term is defined in The Personal Property Security Act (Ontario);

- (d) mortgage, pledge as and by way of a floating charge to and in favour of the Holder and its successors and assigns, the undertaking of the Corporations and all their assets and property for the time being, both present and future, and of whatsoever nature and wheresoever situate, other

than property and assets from time to time effectively subjected to the fixed and specific mortgage and to the security interests created hereby and all proceeds therefrom as such term is defined in The Personal Property Security Act (Ontario);

- (e) grant a security interest in and assign all estate right, title and interest of the Corporations to the rents, leases and profits from the rentals of the commercial spaces in the Hotel;

(all property and assets referred to in this Section 4 being herein referred to as the "mortgaged premises", or alternatively, the "mortgaged property").

To have and to hold the mortgaged premises and the mortgage, pledge and charge thereof hereunder unto the Holder, its successors and assigns, for the use and purpose and with the power and authorities and subject to the terms and conditions herein set forth.

- 5. (a) The Corporations shall not, without the consent in writing of the Holder first had and received, be at liberty to and shall not create or incur or suffer to be created or incurred, any mortgage, encumbrance, hypothec, lien or charge of any kind upon the mortgaged premises or any part thereof ranking or purporting to rank in priority to or pari passu with this Security or the charges created and secured hereby which

would cause this Security to be subject and subordinate to prior liens, mortgages or encumbrances securing a total indebtedness of \$22,800,000.00 or more.

(b) The Corporations shall not, without the consent in writing of the Holder first had and received, sell, assign, transfer or otherwise dispose of the mortgaged premises or any part thereof otherwise than in the ordinary course of business of the Corporations as is presently conducted.

(c) Notwithstanding any other provision to the contrary contained in this Debenture (or in the Promissory Note and Loan Agreement referred to in this Debenture), the Holder acknowledges the obligations of the Corporations under the documents listed below, and the Corporations covenant and agree with the Holder to observe and perform all obligations on their part contained therein:

- (i) the November 1, 1984 Lease Amending Agreement among Lakeview, The Corporation of the City of Hamilton (the "City") and Citibank Canada;
- (ii) the March 28, 1985 King Street Pedestrian Bridge Easement Agreement (to be entered into);
- (iii) the June 10, 1985 Encroachment Agreement with The Regional Municipality of Hamilton-Wentworth (to be entered into);
- (iv) the August 1, 1985 Agreement among the City, Lakeview and Citibank Canada to extend the construction time limit to October 3, 1985 (to be entered into);
- (v) the easements, agreements and subleases provided for in the July 3, 1984 Interface Agreement registered as Instrument No. 161659 L.T. (to be entered into);
- (vi) Lakeview's 85 year Parking sublease to the City required under Section 22.14 of the Ground Lease (to be entered into).

5.1 Notwithstanding the other provisions of Section 5 and the provisions of Section 8 or any other provisions to the contrary in this Debenture (or in the Promissory Note and Loan Agreement referred to in this Debenture), the Holder agrees that:

(a) Lakeview and, if required, the Partnership may negotiate, complete, enter into and register the following:

- (i) the easements, agreements and subleases provided for in the Hotel Interface Agreement (Instrument No. 1616559 L.T.) on terms and conditions to be agreed upon by the parties thereto; and
- (ii) the Pedestrian Bridge Agreement, on terms and conditions to be agreed upon by Lakeview and the City. The Holder acknowledges receiving a draft of this Bridge Agreement dated March 28, 1985, revised as of November 27, 1985;
- (iii) the Sublease of the underground parking to the City as provided for in Section 22 of the Ground Lease, on terms and conditions to be agreed upon by Lakeview and the City.
- (iv) the November 1, 1984 Lease Amending Agreement among Lakeview, the City and Citibank Canada;
- (v) the June 10, 1985 Encroachment Agreement with The Regional Municipality of Hamilton-Wentworth; and
- (vi) the August 1, 1985 Agreement to extend the construction time limit to October 3, 1985.

(b) Although the documents referred to in Section 5.1(a) may be registered after the registration of this Debenture, the Holder agrees that they shall be an encumbrance upon the mortgaged premises prior to this Debenture in the same manner and to the same effect as if they had been dated and registered prior to this Debenture.

6. The last day of any term of years reserved by any lease, verbal or written, or any agreement therefor now held or hereafter acquired by the Corporations is hereby and shall be excepted out of the charges created hereby or by any other instrument supplemental hereto, and does not and shall not form part of the mortgaged property, but the Corporations stand possessed of the reversion remaining in the Corporations of any leasehold interest forming part of the mortgaged property upon trust to assign and dispose thereof as the Holder shall direct.

7. It is agreed that the taking of a judgment or judgments under any of the covenants herein contained shall not operate as a merger of such covenants or affect the Holder's rights to interest at the rate and times aforesaid.

8. The Corporations shall not, either directly or indirectly, and hereby covenant that they will not, without the express prior written consent of the Holder, which consent may be unreasonably withheld:

(a) become guarantor(s) of any obligation or become endorser(s) in respect of any obligation or otherwise become liable upon any note or other obligation other than in the normal course of the Corporations' business unless the obligation or note is in favour of the Holder; or

(b) lend any amount to shareholders, directors, partners or other persons, firms or corporations; or

- (c) pay or make any payments on account of shareholders' advances or monies due to partners, shareholders, directors and officers or the wives or children of such partners, shareholders, directors and officers;
- (d) transfer ownership of the Corporations' real or personal property, directly or indirectly, in any way, shape or form;
- (e) reborrow any sums paid to the Holder pursuant to this Security;
- (f) prepay any amount under, or amend or modify the terms of, any mortgage, encumbrance, hypothec, lien or charge of any kind on the mortgaged premises, which is or may become subject or subordinate to this Security or the charges created and secured hereby;
- (g) terminate, extend, modify, alter or otherwise amend any of the terms and conditions of the leases, licences or concession agreements for any of the commercial space in the Sheraton Hamilton Hotel without the prior written consent of the Holder.

9. The Corporations hereby covenant with the Holder:

- (a) to permit the Holder by its officers or authorized agents at any time from time to time to enter the Corporations' premises, including the Sheraton Hamilton Hotel, to inspect the Corporations' operation thereof;
- (b) to keep proper books of account and records covering all the business and affairs of the Corporations and to permit the Holder by its officers or authorized agents from time to time to inspect the books of account and records of the Corporations and the Partnership and to make extracts therefrom;
- (c) to furnish annually to the Holder within ninety (90) days of the close of the fiscal year of each of the Corporations and the Partnership, a detailed copy of the report of the independent auditors of the Corporations and the Partnership (as the case may be), complete with detailed balance sheets, profit and loss statements and supporting schedules;
- (d) to maintain the corporate existence of the Corporations and the legal existence of the Partnership and to diligently maintain, use and operate the mortgaged property and carry on and conduct the business in a proper and efficient manner so as to preserve and protect the mortgaged property and the earnings, incomes, rents, issues and profits thereof;

- (e) to duly observe and conform to all valid requirements of any governmental authority relative to any of the mortgaged property and all covenants, terms and conditions upon which the mortgaged property is held;
- (f) to keep the mortgaged premises in good condition and repair according to the nature and description thereof, and to permit the Holder, whenever it deems necessary, either in person or by agent, to enter upon and inspect the said property, and to make repairs as it deems necessary, and the cost of such inspection and such repairs shall be added to the principal of the debt secured by this Security;
- (g) to diligently preserve and maintain at all times all liquor licences deemed by the Holder to be necessary or desirable for the effective or proper operation of the business of the Hotel.

10. The Corporations covenant and agree that they shall forthwith insure and during the continuance of this Security shall keep insured against loss or damage by fire and other insurable hazards all of their property which is of a character usually insured by corporations owning or operating property of the same or similar nature to the extent of the full insurable value thereof, and with reputable insurers acceptable to the Holder; and that they will not do or suffer anything to be done

whereby the said insurance may become vitiated and will pay all premiums and other monies necessary for such purpose as the same shall become due. At the written request of the Holder, the losses under the policies or contracts of such insurance and any renewals thereof shall be payable to the Holder as its interests may appear and such policies and contracts shall be on terms satisfactory to the Holder and shall be delivered to and held by the Holder. In the event the Corporations shall fail to insure or cause to be insured their properties as aforesaid, or to pay or cause to be paid the premiums with respect to such insurance, or to deliver the policies or contracts of insurance if so requested by the Holder, the Holder may insure such properties, and all monies expended by it in effecting such insurance with interest as hereinbefore provided, computed from the time of advancing the same, shall be repaid by the Corporations on demand and until such payment shall be made, the amount thereof shall be added to the principal sum hereby secured and shall be a charge upon the mortgaged premises.

10.1 Notwithstanding any other provision in this Section 10 or this Debenture to the contrary, it is understood and agreed that proceeds of insurance policies shall be payable according to and utilized in accordance with and subject to the insurance provisions contained in the Ground Lease (the "Ground Lease") registered as Instrument No. 271066 C.D.

11. The Corporations covenant and agree that they will in each and every year pay and discharge all taxes (including local improvement rates), rates, duties and assessments that may be levied, rated, charged

or assessed against the mortgaged premises or any part thereof, including any buildings, structures, improvements or facilities now or hereafter erected upon the lands, as and when the same become due and payable. In the event the Corporations shall fail to pay such taxes, rates, duties or assessments when due, the Holder may, but shall not be obligated to, pay the same and any amounts so paid shall become a part of the principal sum secured by the Security and a charge upon the mortgaged premises and shall be forthwith payable by the Corporations with interest at the aforesaid rate until paid.

12. The Corporations agree that neither the preparation nor the execution nor the registration of this Security shall bind the Holder to advance monies to the Corporations nor shall the advance of monies by the Holder to the Corporations bind the Holder to advance further monies, but nevertheless, the charge hereby created shall take effect forthwith upon the execution of these presents by the Corporations and the legal and other fees and disbursements, if not paid by the Corporations, are to be secured by the charge hereby created whether or not the whole or any balance of the principal sum of this Security remains not advanced and the said fees and disbursements shall be payable forthwith without demand therefor with interest at the rate provided for in this Security, and in default, all remedies hereunder and at law and in equity shall be exercisable.

13. The principal, interest and other monies secured by this Security shall become immediately due and payable, whether with or without

prior demand therefor, and the Security hereby constituted shall become enforceable in each and every of the following events:

- (a) if the Corporations default in the payment (including any mandatory prepayment required under the terms of this Security), in whole or in part, of the principal of or interest on this Security or any other monies secured hereby to the Holder or any affiliate or subsidiary thereof;
- (b) if the Corporations default in the observance or performance of any other covenants, agreements or conditions on the part of the Corporations to be kept, observed and performed under this Debenture, the Promissory Note, the Loan Agreement and all Loan Instruments (as that term is defined in the Loan Agreement) or if any "Event of Default" occurs or is deemed to occur under the terms of the Loan Agreement;
- (c) if an order is made or an effective resolution is passed or any action taken for the winding-up of either or both of the Corporations or the dissolution of the Partnership, or if a petition is filed for the winding-up of either or both of the Corporations or the dissolution of the Partnership;

- (d) if either or both of the Corporations or the Partnership becomes insolvent or makes an authorized assignment or bulk sale of its assets, or if a petition in bankruptcy is filed or presented against either or both of the Corporations or the Partnership; or if either or both of the Corporations or the Partnership files a Proposal under The Bankruptcy Act;
- (e) if any execution, sequestration, extent or any other process of any court becomes enforceable against either or both of the Corporations or the Partnership, or if a distress or analogous process is levied upon the property of either or both of the Corporations or the Partnership or any part thereof, provided that such execution, sequestration, extent or other process is not in good faith being contested by the either or both of Corporations or Partnership, as the case may be;
- (f) if either or both of the Corporations or the Partnership cease or threaten to cease to carry on its business or if either or both of the Corporations or the Partnership commit or threaten to commit any act of bankruptcy;
- (g) if the either or both of Corporations or the Partnership shall permit any sum which has been admitted as due by either or both of the Corporations or the Partnership or

is not disputed to be due by it and which forms or is capable of being made a charge upon any of the mortgaged premises in priority to or pari passu with the charge created and secured by this Security to remain unpaid for thirty (30) days after proceedings have been taken to enforce the same as a charge upon the mortgaged premises ranking in priority to or pari passu with the charge created and secured hereby;

- (h) if either or both of the Corporations default in the due payment, performance or observance, in whole or in part, of any debt, liability or obligation of the Corporations or the Partnership, as the case may be, to the Holder, whether secured hereby or otherwise;
- (i) if either or both of the Corporations or the Partnership default in the payment, in whole or in part, of the principal of, or interest on, a permitted encumbrance or any lien or mortgage registered in priority to this Debenture, or any other monies secured thereby; or if either or both of the Corporations or the Partnership default in the performance or observance of any other covenant, agreement or condition therein on the part of the Corporations or the Partnership, as the case may be, to be kept, observed and performed;

- (j) if the Management Agreement is terminated for any reason;
- (k) if either or both of the Corporations or Partnership shall experience such a change in the condition or affairs as in the opinion of the Holder shall increase its credit risks or make its debt insecure; or
- (l) if either or both of the Corporations or Partnership fail to comply with any term of the Loan Agreement dated the 1st day of August, 1985 between Lakeview Development Ltd. as Operator, Lakeview Development of Canada Ltd. as Lender and Lakeview and the Partnership collectively as Borrower.

14. The Holder may waive any breach of any of the provisions contained in the Security or any default by either or both of the Corporations or the Partnership in the observance or performance of any covenant, agreement or condition required to be kept, observed or performed by the Corporations or the Partnership under the terms of the Security; provided always that no act or omission of the Holder in the premises shall extend to or be taken in any manner whatsoever to affect any subsequent breach or default of the rights of the Holder resulting therefrom.

15. At any time after the happening of any event upon the happening of which the Security hereby constituted becomes enforceable, the Holder may, by instrument in writing, appoint any person or persons, whether an officer or officers or employee or employees of the Holder or not, to be

a receiver or receivers so appointed and appoint another or others in his or their stead. Any such receiver shall, so far as concerns responsibility for his acts, be deemed the agent of the Corporations and the Holder shall not in any way be responsible for any acts or omissions, including negligence, misconduct or misfeasance on the part of any such receiver. Subject to the provisions of any instrument appointing such receiver, any such receiver or receivers so appointed shall have power to take possession of the mortgaged premises and to carry on or to concur in carrying on the business of the Corporations and to sell and concur in the selling of all or any part of the mortgaged premises. Except as otherwise directed by the Holder, all monies from time to time received by such receiver shall be received in trust for and paid over to the Holder. The rights and powers conferred by this section are in supplement of and not in substitution for any rights or powers the Holder may from time to time have as the Holder of the Security and every such receiver may, in the discretion of the Holder, be vested with all or any of the rights and powers of the Holder. Nothing in the Security contained and nothing done by the Holder or by any said receiver or receivers shall render the Holder a mortgagee in possession or responsible as such. The term "receiver" as used herein includes a receiver and manager.

16. If the Security hereby constituted shall become enforceable, the Holder may, either before or after any entry, sell and dispose of the mortgaged premises, either as a whole or in separate parcels, at public auction or by tender or by private sale at such time or times as the

Holder may determine, and may make such sale, either for cash or part cash and part credit, and with or without advertisement, and with or without a reserve bid as the Holder may, in its sole discretion, deem proper, and the Holder may also rescind or vary any contract of sale that may have been entered into and resell with or under any of the powers conferred hereunder and adjourn any such sale from time to time and may execute and deliver to the purchaser or purchasers of the said property or any part thereof good and sufficient deed or deeds for the same, the Holder being hereby constituted the irrevocable attorney of the Corporations and the Partnership for the purpose of making such sale and executing such deeds, and any such sale made as aforesaid shall be a perpetual bar both in law and in equity against the Corporations and the Partnership and all other persons claiming the said mortgaged premises or any part thereof, by, from, through or under the Corporations and the Partnership.

16.1 Notwithstanding any provision contained to the contrary herein, it is understood and agreed that this Debenture is subject to the rights of The Corporation of the City of Hamilton, as lessor, under the Ground Lease registered as Instrument No. 271066 C.D. and in particular to the right of the City to acquire title to the Improvements as defined in the said Ground Lease upon expiration or termination thereof in accordance with and subject to the provisions and conditions of the Ground Lease.

16.2 Notwithstanding any provision contained to the contrary herein, in the event that the Holder shall succeed to the interest of the Corpo-

rations in the mortgaged premises by way of foreclosure, or otherwise takes possession thereof, or if the mortgaged premises are sold pursuant to a power of sale hereunder, it is understood and agreed that the Holder or any purchaser succeeding to the interests of the Holder in the mortgaged premises shall assume all terms and obligations of the Interface Agreement, which agreement is registered in the Land Registry Office for the Land Titles Division of Wentworth (No. 62) as Instrument No. 161659 L.T. and any agreement, easement, lease or sublease contemplated by the said Interface Agreement.

16.3 The Holder and the Corporations, as required by Section 16.01 of the Ground Lease referred to in paragraph 4(a) hereof, shall enter into an agreement respecting, inter alia, the Ground Lease and this Debenture, on substantially the terms and conditions as are contained in an agreement in blank attached to the Undertaking executed by the Corporations in favour of the City dated August 1, 1985, with such amendments and additional terms as may be agreed upon among the parties thereto.

17. The Corporations agree to pay to the Holder forthwith upon demand all costs, charges and expenses (including legal fees) of, or incurred by the Holder in connection with the Security or the mortgaged premises or any part thereof, or in recovering or enforcing payment of any of the monies owing hereunder, including all costs, charges and expenses incurred in connection with taking possession, preserving,

collecting or realizing upon the mortgaged premises, together with interest thereon at a rate equal to Two (2%) percent per annum above the Prime Rate (as defined in paragraph 1 hereof) from the date of incurring such costs, charges and expenses.

18. Subject to the provisions hereof, upon payment by the Corporations to the Holder of the principal of, interest on and other monies secured by the Security, the Holder shall, upon the written request of the Corporations or either of them, deliver up the Security to the Corporations and shall, at the expense of the Corporations, release and discharge the Security hereby constituted and execute and deliver to the Corporations such deeds or other documents as shall be requisite to release and discharge the Security and the security afforded hereby. No postponement or partial release or discharge of the mortgage, lien and charge created under and secured by the Security in respect of all or any part of the mortgaged premises shall in any way operate or be construed so as to release and discharge the Security hereby constituted in respect of the mortgaged premises except as therein specifically provided, or so as to release or discharge the Corporations from their liability to the Holder to fully pay and satisfy the ultimate balance of the indebtedness due or remaining unpaid to the Holder.

19. This Security is to be treated as a negotiable instrument and all persons are invited by the Corporations to act accordingly.

20. The principal, interest and other monies hereby secured will be paid and shall be assignable free from any right of set-off or counter-claim or equities between the Corporations and the Holder.

21. The Security hereby constituted is in addition to and not in substitution for any other security now or hereafter held by the Holder and no payment to the Holder shall constitute payment on account of the principal, interest or other monies from time to time owing hereunder unless specifically so appropriated in writing by the Holder.

22. The Corporations shall have no right or claim whatsoever to any release or discharge of the Security unless and until the Holder shall have first received and in writing acknowledged the payment in full of the ultimate liability of the Corporations to the Holder. For the purpose of this Debenture, "the ultimate liability" shall mean such sums of money as upon the closing of the accounts of the Corporations with the Holder shall be found to be due or remaining unpaid by the Corporations.

23. The taking of any action or proceedings or refraining from so doing, or any other dealing with any other security for the monies secured hereby shall not release or affect the charge of the Security and the taking of the Security hereby granted or any proceedings hereunder for the realization of the Security hereby granted shall not release or affect any other security held by the Holder for the monies hereby secured.

24. Any notice, demand or communication required to be given hereunder shall be conclusively deemed to have been received by a party hereto and be effective on the day on which delivered in writing to such party at the address set forth below (or at such other address as such party shall specify to the other parties in writing) or if sent by certified mail, return receipt requested, on the third (3rd) business day after the day on which mailed, addressed to such party at the said address:

To the Holder:

Lakeview Development of Canada Ltd.
6th Floor, 185 Carlton Street
Winnipeg, Manitoba
R3C 3J1

Attention: Jack Levit

To the Corporations:

Lakeview Development Ltd.
and 127089 Canada Ltd.
6th Floor, 185 Carlton Street
Winnipeg, Manitoba
R3C 3J1

Attention: Jack Levit

25. All monies secured by this Security are non-assignable and shall under no circumstances enure to the benefit of any lender or party-in-interest which may become owner of the Hotel.

26. The Corporations hereby covenant and agree with the Holder that they will forthwith and with all reasonable diligence at all times do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, all and every such further acts, deeds, mortgages,

transfers and assurances as the Holder shall reasonably require for the better assuring, mortgaging, assigning and confirming unto the Holder hereof all and singular the property and assets mortgaged and charged or intended so to be or which the Corporations may hereafter become bound to mortgage or charge in favour of the registered Holder hereof or for the better accomplishing and effectuating of the intentions of this Security, including, without restricting the generality of the foregoing, giving prompt notice in writing to the Holder of any interest acquired by it in any real or immoveable property.

27. The security interests created hereby are intended to attach when the Security is executed by the Corporations and delivered to the Holder.

28. Should any one or more provisions of this Security be determined to be illegal or unenforceable or otherwise invalid, all other provisions nevertheless shall remain effective.

29. This Security is issued, executed and delivered by 127089 as General Partner of King Street Hamilton Hotel Limited Partnership pursuant to the terms of a Loan Agreement dated the 14th day of August, 1985 between Lakeview as Operator, Lakeview Development of Canada Ltd. as Lender and Lakeview and King Street Hamilton Hotel Limited Partnership, by its General Partner, 127089 collectively as Borrower. In the event of a conflict between the provisions hereof and the provisions of the Loan Agreement, the provisions of the Loan Agreement shall prevail.

30. Wherever the singular or masculine or neuter is used in this Security, the same shall be construed as meaning the plural or feminine or body corporate and vice versa, where the context or the parties so require.

IN WITNESS WHEREOF the Corporations have caused their corporate seals to be hereunto affixed and these presents to be signed by their proper officers duly authorized in that behalf, the day and year first above written.

LAKEVIEW DEVELOPMENT LTD.

Per: _____

Per: _____

127089 CANADA LTD., as General Partner
of KING STREET HAMILTON HOTEL LIMITED
PARTNERSHIP

Per: _____

Per: _____

PERMITTED ENCUMBRANCES:

Agreement 199965 AB
Amendment to Agreement 168766 CD
Ground Lease 271066 CD
Agreement 292836 CD
Agreement 292837 CD
Agreement 292838 CD
Agreement 292839 CD
Agreement 292840 CD
Notice of Sublease 153111 LT
Notice of Agreement 161659 LT
Charge 163466 LT
Notice of Agreement 164281 LT

Notice of Agreement 164282 LT
Notice of Agreement 164283 LT
Postponement of Charge 164284 LT
Postponement of Charge 164285 LT
Postponement of Charge 164286 LT
Notice of Agreement 164287 LT
Notice of Assignment of Rent 164288LT
Notice of Assignment of
Agreement 164362 LT
Notice of Agreement 164371 LT
Postponement of Charge 164372 LT

PERMITTED ENCUMBRANCES Continued

Any and all other instruments, agreements and documents referred to in Section 5 of this Debenture:

Undertaking executed by the Corporations in favour of the City dated August 23, 1985:

Amending Agreement among the City, Lakeview Development Ltd. and the Limited Partnership dated August 21, 1986.

PROMISSORY NOTE

Canadian \$750,000.00

Winnipeg, Manitoba
August 14, 1985

For value received, LAKEVIEW DEVELOPMENT LTD. a Federal corporation and KING STREET HAMILTON HOTEL LIMITED PARTNERSHIP a limited partnership created under the laws of the Province of Ontario (collectively, the "Makers") jointly and severally promise to pay to the order of LAKEVIEW DEVELOPMENT OF CANADA LTD. ("lender" or "holder") at its offices at Winnipeg, Manitoba or at such other place as the Lender may designate from time to time, SEVEN HUNDRED AND FIFTY THOUSAND (C \$750,000.00) DOLLARS on or before August 13, 1998 which sum represents that advanced to the Makers on the date hereof in respect of the operation of the Hotel, as provided for and defined in that certain management agreement between the Makers and Lakeview Development Ltd. subject to the terms of that certain loan agreement of even date herewith between the Makers as "Borrower", the Lender, and Lakeview Development Ltd. as "Operator" (the "Loan Agreement"), and which sum further shall be deemed to be increased by that in respect of deferred interest hereunder, as hereinafter provided.

Interest on the principal amount of this Note outstanding from time to time shall be equal to the then current Prime Rate ("Prime Rate" means the annual rate of interest charged and generally announced by the Royal Bank of Canada from time to time as being its Prime Rate for substantial Canadian dollar demand loans in Canada), and shall be payable monthly in arrears and calculated based upon a 365/366 day year and the actual days elapsed. Notwithstanding the foregoing, during the first thirty-six (36) months of the term hereof, such interest shall accrue but payment thereof shall be deferred, the aggregate thereof from time to time being deemed to increase the aggregate principal amount due pursuant to this Note, to be subject to interest as otherwise herein provided, and to be due and payable on or before the term date set forth in the first paragraph of this Note. Beginning with the thirty-seventh (37th) month of the term hereof, the aggregate principal amount hereof (including deferred interest as aforesaid) shall be amortized and repaid in 120 level monthly installments due and payable in arrears at the same time as the interest payment hereunder is due and payable.

If any payment hereunder would otherwise be due on a day which is not a day on which banks are open for business in Winnipeg, it shall be due on the next day which is such a business day.

In the event of the happening of any one or more of the following, to wit: if principal, interest or any other sum payable on any liability of the undersigned to the holder, any affiliate or subsidiary thereof shall not be paid when due; or if the undersigned, any endorser or guarantor hereof shall become insolvent (however such insolvency may be evidenced), commit any act of bankruptcy, or make a general assignment for the benefit of creditors; or if the transaction of the usual business of the undersigned shall be suspended, or any proceeding, procedure or remedy supplementary to or in enforcement of judgment shall be resorted to or commenced against, or with respect to any property of, the undersigned or any such endorser or guarantor; or if a petition in bankruptcy or for relief under any law relating to the relief of debtors, readjustment of

of indebtedness, reorganization, composition or extension shall be filed, or any proceeding shall be instituted under any such law, by or against the undersigned or any such endorser or guarantor; or if any governmental authority or any court at the instance thereof shall take possession of any substantial part of the property of, or assume control over the affairs or operations of, or a receiver shall be appointed of, or of any substantial part of the property of, or a writ or order of attachment or garnishment shall be issued or made against any of the property of, the undersigned or any such endorser or guarantor; or if any indebtedness of the undersigned or any such endorser or guarantor for borrowed money shall become due and payable by acceleration or maturity thereof; or if the undersigned shall be dissolved or be a party to any merger or consolidation without the written consent of the holder hereof; or if the undersigned, any endorser or guarantor hereof should experience such a change in the condition or affairs of any of them as in the opinion of the holder, shall increase its credit risks or make its debt insecure; or if maker fails to comply with any term or condition of the Loan Agreement, or in the event of termination for any reason of the Management Agreement.

...THEN and in every such event, this Note and the present and future indebtedness, obligations and liabilities of any kind of the undersigned to the holder hereof, whether created directly or acquired by assignment, whether absolute or contingent, shall, unless the holder hereof shall otherwise elect, forthwith become and be due and payable, without demand or notice.

In addition to any other rights of the holder under applicable law, the holder shall have a lien on, and a security interest in, any and all property of the undersigned which may from time to time come in the possession, custody or control of the holder hereof, and the holder may at any time, without notice, apply the same to the note or such other liabilities, whether due or not. The undersigned and all endorsers, guarantors and other parties to this Note waive demand for payment, presentment, protest and notice of dishonor and any and all other notices and demands whatsoever, and further waive the right to interpose any counterclaim or set-offs of any kind on any litigation relating to this Note or any such other liabilities. Failure or delay of the holder to enforce any provisions of this Note shall not be deemed a waiver of any such provision, nor shall the holder be estopped from enforcing any such provision at a later time.

This Note and any guaranty or endorsement thereof shall be deemed to be governed by the laws of the Province of Ontario (without giving effect to provisions relating to conflicts of law) in all respects, including matters of construction, validity and performance, and it is understood and agreed that none of its terms or provisions may be waived, altered, modified, or amended except in writing.

Any legal action or proceeding arising out of or relating to this Note may be instituted in the courts of the Province of Ontario and the undersigned and all endorsers and guarantors submit to the jurisdiction of such courts in any such action or proceeding, provided, however, that the foregoing shall not limit the holder's rights to bring any legal action or proceeding in any other appropriate jurisdiction, in which event,

at the holder's option, the laws of such jurisdiction or of the Province of Ontario shall apply. If an attorney is used to enforce or collect this Note, the undersigned shall be obliged to pay all costs and expenses of collection, including reasonable attorney's fees.

LAKEVIEW DEVELOPMENT LTD.

PER: _____

KING STREET HAMILTON HOTEL LIMITED
PARTNERSHIP by its General Partner
127089 CANADA LTD.

PER: _____

SCHEDULE "B"

LOAN AGREEMENT

THIS AGREEMENT made this 14th day of August, 1985 by and between LAKEVIEW DEVELOPMENT LTD. ("Operator"), a Federal corporation continued under The Canada Business Corporations Act, with its principal place of business at 6th Floor, 185 Carlton Street, Winnipeg, Manitoba, R3C 3J1, and LAKEVIEW DEVELOPMENT OF CANADA LTD., a Federal corporation incorporated under The Canada Business Corporations Act, with its principal place of business at 6th Floor, 185 Carlton Street, Winnipeg, Manitoba, R3C 3J1 ("Lender"), and LAKEVIEW DEVELOPMENT LTD., a Manitoba Corporation, and KING STREET HAMILTON HOTEL LIMITED PARTNERSHIP (collectively, the "Borrower"), with its principal place of business at 6th Floor, 185 Carlton Street, Winnipeg, Manitoba, R3C 3J1.

1. RECITAL

WHEREAS Borrower is the owner of the Sheraton Hamilton Hotel (the "Hotel") located in Hamilton, Ontario pursuant to a ground lease for the real property and improvements thereon (together with all amendments thereto herein referred to as the "Lease") dated May 3, 1983 and a sublease (together with all amendments thereto herein referred to as the "Sublease") dated October 1, 1984;

AND WHEREAS Borrower has requested that Operator loan or cause to be loaned to the Borrower the sum of SEVEN HUNDRED AND FIFTY THOUSAND (\$750,000.00) DOLLARS CANADIAN (the lender of such amount being referred to herein as the "Lender");

NOW THEREFORE in consideration of the foregoing premises, the mutual promises herein contained and for other good and valuable consideration (receipt of which is hereby acknowledged), the parties agree as follows:

Operator shall, upon the terms and subject to the conditions hereof, make a loan or cause to be loaned (the "Loan") to the Borrower on the Closing Date an aggregate principal amount of SEVEN HUNDRED AND FIFTY THOUSAND (\$750,000.00) DOLLARS (subject to reduction or termination in accordance with the terms and conditions hereof). The "Closing Date" (which shall coincide with the execution of the Agreement and the Note and Mortgage and funding of the Loan) shall occur, upon fulfillment by the Borrower of all the terms and conditions hereof, on the Opening Date as defined in Article III of that certain Management Agreement between the Borrower and the Operator dated August 1, 1985 (the "Management Agreement").

2. FUTURE ADVANCES

The aggregate amounts outstanding from time to time in respect of deferred interest under the provisions of the Note (which deferred interest as therein provided aggregates to principal over the first three (3) years of the Note term) shall be deemed to constitute "Future Advances" hereunder, to be aggregated when and as so deferred to the outstanding principal amount of the Loan, to be secured by the Mortgage and to be advanced subject to all of the terms and conditions of this Agreement. Finally, when, as and if Operator should determine to advance to and in respect of operation of the Hotel any sums not otherwise required of it pursuant hereto or under the terms of the Management Agreement, all such sums shall be deemed without further action or consent to constitute "Future Advances" hereunder to be aggregated when and as advanced to the outstanding principal amount of the Loan, to be secured by the

Mortgage, and to be advanced subject to all of the terms and conditions of this Agreement. The Loan and all such Future Advances shall be deemed referred to herein as the "Loan".

3. THE NOTE AND MORTGAGE

(a) Borrower acknowledges that the Loan shall be evidenced by a promissory note of the Borrower payable to Lender in the form set forth as Exhibit "A" hereto, in the amount of SEVEN HUNDRED AND FIFTY THOUSAND (\$750,000.00) DOLLARS CANADIAN (the "Note") for the Loan.

(b) The obligation of the Borrower to repay the Note in full shall be secured by the following collateral (the "Collateral"):

(i) the granting of a mortgage or Deed of Trust (the "Mortgage") in a form reasonably satisfactory to Lender and its Counsel, encumbering the Borrower's interest in the real property and improvements comprising the Hotel, subject only to those matters set forth on an exhibit thereto (the "Permitted Exceptions"), and further subject and subordinate to prior liens and mortgages securing a total indebtedness not to exceed \$22,800,000.00;

(ii) the granting of a security interest, if legally possible, by Borrower's perfecting a security interest in the alcoholic licence for the Hotel;

- (iii) the execution of an assignment by the Borrower of the rents and profits derived from the rentals of the commercial spaces in the Hotel, subject to such prior assignments as may be required by such financial institutions providing interim and permanent mortgage financing on the Hotel;
- (iv) the execution of a financing statement by Borrower covering all furniture, fixtures and improvements located at the Hotel or used in the operation thereof subject to such price assignments as may be required by such financial institutions providing interim and permanent mortgage financing on the Hotel;
- (v) the execution, acknowledgement and delivery to the Lender of such other assignments, pledges, deeds, mortgages, financing statements and other documents as may from time to time be necessary or requested by the Lender, all in order to implement and effectuate and/or to evidence and confirm, to the Lender's satisfaction, its security interest in the above-described collateral.

This Agreement and the Note, Mortgage, financing statements and other documents evidencing or securing the debt of the Borrower to the Lender are sometimes referred to herein as the "Loan Instruments".

(c) The Note shall bear interest and shall be repaid as set forth in the Note.

4. MANDATORY PREPAYMENT

The Borrower shall promptly prepay the unpaid principal balance of the Note in the amount of:

(a) the cash proceeds received by the Borrower from the sale or issuance of any additional security or other interests in Borrower;

(b) the net cash proceeds of any asset of the Hotel or Borrower sold in an asset sale solely for cash.

5. NO RIGHT TO REBORROW

The Borrower shall have no right to reborrow any sums paid to the Lender on the Note without the express prior written agreement of the Lender (and Operator if Operator is not the lender) which may be withheld for any reason or no reason.

6. REPRESENTATIONS AND WARRANTIES OF BORROWER

In order to induce the Lender to enter into this Agreement, Borrower hereby makes the following warranties and representations to the Lender as of the date of execution of this Agreement, all of which warranties and representations shall be true and correct on and as of the date of the execution of the Loan Instruments and funding of the Loan (the "Closing Date") with the same effect as if made on such date and will survive the Closing Date:

- (a) Borrower is the owner of the Hotel and the Lease of the real property upon which the Hotel and parking area are located, subject only to the Permitted Exceptions. The Borrower has delivered to the Operator, on or before the date hereof, true and correct copies of all leases (other than tenant leases) affecting the real property;

- (b) Lakeview Development Ltd. ("Lakeview") and King Street Hamilton Hotel Limited Partnership (the "Partnership") are duly organized and validly existing under the laws of Canada and the Province of Ontario respectively, with full power and authority to own, sell, lease and mortgage their respective right, title and interest in the Hotel, to transact the business in which they are engaged, to conduct business in Manitoba and Ontario, to enter into this Agreement and to undertake all the transactions contemplated hereunder. All consents and authorizations on the part of the directors, officers or stockholders of Lakeview and 127089 Canada Ltd. (the "General Partner"), the general partner of the Partnership, and any other person or entities required to authorize the transactions contemplated by this Agreement have been duly obtained;

- (c) Borrower has not received any written notice from any of the insurers under the insurance policies maintained with respect to the Hotel of any physical condition of the Hotel or any

portion thereof of which such insurer has recommended or required correction or change or of any practice of the Hotel of which any insurer has required or recommended correction or change, unless, in either such case, such correction or change has been made by the Borrower;

(d) No material default has occurred in the due observance of any condition to any of the permits or licences for the Hotel and improvements and Borrower has not received any notification from any governmental agency to the effect, nor is Borrower aware that:

(i) there is lacking any licence, franchise or permit needed for the lawful conduct of the business of the Hotel as presently conducted; or

(ii) there is any pending or threatened litigation, moratorium or condemnation proceeding which would have material adverse effect or prohibit or interfere with the continued operation of the Hotel subsequent to the Closing Date substantially in the manner it is operated at present;

(e) There are no actions or proceedings pending, or to the best of Borrower's knowledge and belief, threatened against Borrower

- (iv) no registration with, consent or approval of, or other action by, any federal, provincial or other governmental authority or regulatory body or court to the execution, delivery and performance of this Agreement by the Borrower is required by law;
- (j) Borrower has duly filed all federal, provincial and municipal income, excise and other tax returns and reports required to be filed up to the date hereof with respect to the Borrower and the Hotel. All such returns are, to the best of Borrower's knowledge and belief, true and correct, and Borrower has paid all taxes, interest and penalties shown on such returns or reports or claims to be due to any federal, provincial and municipal or other taxing authority, and, to the best of Borrower's knowledge and belief, there is no basis for any additional claim or assessment. All federal, provincial and municipal taxes and assessments and other governmental or quasi-governmental levies of any kind which have become due for payment prior to the date hereof, and non-payment of which would in any way affect the Hotel, the Real Property or any part thereof, or Lender's Mortgage thereon, or in any way impose liability on the Lender, have been paid or shall be paid prior to the Closing Date in full by Borrower, together with all interest and penalties thereon.

7. CONDITIONS OF LENDING

The obligations of the Lender to make the Loan hereunder are subject to the following conditions precedent:

- (a) As of the Closing Date and at the time of each and any Future Advance hereunder, the representations and warranties set forth in paragraph 6 hereof and in all of the other Loan Instruments shall be true and correct in all material respects on and as of such time, with the same effect as though such representations and warranties had been made on and as of such time;
- (b) On the Closing Date, the Lender shall have received the favourable written opinion of counsel for the Borrower, dated the date of the Loan, addressed to the Lender and satisfactory to counsel for the Lender, and based solely upon an affidavit or statutory declaration of an officer of Lakeview and an officer of the General Partner:
 - (i) confirming the accuracy of the representations and warranties set forth in paragraph 6; and
 - (ii) to the effect that:
 - (1) this Agreement, the Note and each of the other Loan Instruments to which the Borrower is a party have been duly authorized, executed and delivered

by the Borrower which is a party thereto and constitute the legal, valid and binding obligations of the Borrower which is a party thereto, enforceable in accordance with their respective terms (except as enforceability may be limited by bankruptcy, re-organization, insolvency and similar laws affecting creditor's rights generally from time to time in effect); and

- (2) no registration with, consent or approval of, or other action by, any federal, provincial or other governmental authority or regulatory body to the execution, delivery and performance by the Borrower of this Agreement, the Notes and each of the other Loan Instruments to which the Borrower is a party and the borrowing of the Loan hereunder is required by law, or, if so required, such registration has been made, such consent or approval has been given or such other appropriate action has been taken;

- (c) At the time of the Loan, and after giving effect thereto, the Borrower shall be in compliance with all the terms and provisions set forth herein on its part to be observed or performed, and no Event of Default specified in paragraph 9 hereof, nor any event which, with the giving of notice or lapse of time or

both, would constitute such an Event of Default, shall have occurred and be continuing;

(d) On the Closing Date, the Borrower shall deliver to the Lender a certificate, signed by the President and Chief Financial Officer of the Borrower:

(i) confirming compliance with the conditions precedent set forth in paragraph 7(a) and (c) hereof; and

(ii) to the effect that the condition (financial or otherwise) of the Borrower is not materially adversely different from that set forth in the latest financial statement delivered to the Lender;

(e) On or prior to the Closing Date, the Lender shall have received the following documents:

(i) a certificate issued by competent authorities of the appropriate jurisdictions dated as of a recent date as to the existence and good standing of Lakeview and the General Partner;

(ii) a certificate of the Secretary or an Assistant Secretary of Lakeview and the General Partner as to the incumbency

- (c) default shall be made in the payment (including any mandatory prepayment required by paragraph 4 hereof) of the principal of or the interest on the Note when and as due and payable;
- (d) default shall be made with respect to any other indebtedness encumbering or affecting the Hotel, the real property or any security interest or financing statement beyond any applicable period of grace, or default shall be made with respect to the performance of any other obligation incurred in connection with any such indebtedness beyond any applicable period of grace, or default shall be made with respect to any other liability, if the effect of any such default is to accelerate the maturity of such liability or cause any other liability or indebtedness encumbering the Hotel, the real property or any security interest or financing statement to become due prior to its stated maturity or be terminated or to give any such Lender the right or Power to Accelerate or so cause an acceleration or default;
- (e) default shall be made in the due observance or performance of any other covenants, condition or agreement on the part of the Borrowers to be observed or performed pursuant to the terms of this Agreement or the Loan Instruments;
- (f) Lakeview, the General Partner or the Partnership shall:

- (i) apply for or consent to the appointment of a receiver, trustee or liquidator of Lakeview, the General Partner or the Partnership or any of their respective properties or assets;
 - (ii) admit in writing its inability to pay their debts as they mature;
 - (iii) make a general assignment for the benefit of creditors;
 - (iv) be adjudicated a bankrupt or insolvent; or
 - (v) file a voluntary petition in bankruptcy, or a petition or any answer seeking re-organization or an arrangement with creditors or to take advantage of any bankruptcy, re-organization, insolvency, re-adjustment of debt, dissolution or liquidation, law or statute, or any answer admitting the material allegations of a petition filed against it in any proceeding under any such law or if action shall be taken by the Borrower for the purpose of effecting any of the foregoing;
- (g) an order, judgment or decree shall be requested or entered without the application, approval or consent of the debtor by any court of competent jurisdiction approving a petition

seeking re-organization of Lakeview, the General Partner or the Partnership or of all or a substantial part of its properties or assets, or appointing a receiver, trustee or liquidator of Lakeview, the General Partner or the Partnership and such a request for an order, judgment or decree shall be granted or continue unstayed and in effect for any period of 60 days;

- (h) final judgment for the payment of money in excess of \$50,000.00 shall be rendered against Lakeview, the General Partner or the Partnership and the same shall remain undischarged for a period of 60 days during which execution shall not be effectively stayed;
- (i) the Management Agreement is terminated for any reason;
- (j) the collateral secured by the Mortgage is sold, transferred or otherwise conveyed, whether directly or indirectly, by a sale of stock in Lakeview or the General Partner or by a sale of interests in any stockholder of Lakeview or the General Partner which would result in the current stockholders as of the date of execution of this Loan Agreement having less than a 51% interest in Lakeview or the General Partner; then, or at any time thereafter during the continuance of any such event, Lender may, by written notice to Lakeview or the General Partner, declare the Note to be forthwith due and payable, both

as to principal and interest, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived, anything contained herein or in the Note to the contrary notwithstanding. Provided that the provisions of this sub-paragraph 9(j) shall not apply to any sale, transfer or conveyance permitted under Article XXIX of the Management Agreement.

10. NOTICE

Any notice, demand or communication required to be given hereunder shall be conclusively deemed to have been received by a party hereto and be effective on the day on which delivered in writing to such party at the address set forth below (or at such other address as such party shall specify to the other parties in writing), or if sent by certified mail, return receipt requested, on the third business day after the day on which mailed, addressed to such party at said address:

To Lender: Lakeview Development of Canada Ltd.
6th Floor, 185 Carlton Street
Winnipeg, Manitoba
R3C 3J1

Attention: Mr. Jack Levit

To Operator: Lakeview Development Ltd.
6th Floor, 185 Carlton Street
Winnipeg, Manitoba
R3C 3J1

Attention: Mr. Jack Levit

To Borrower: Lakeview Development Ltd.
6th Floor, 185 Carlton Street
Winnipeg, Manitoba
R3C 3J1

Attention: Mr. Jack Levit

King Street Hamilton Hotel Limited Partnership
6th Floor, 185 Carlton Street
Winnipeg, Manitoba
R3C 3J1

Attention: Mr. Jack Levit

11. SURVIVAL OF WARRANTIES AND REPRESENTATIONS

All covenants, agreements, representations and warranties made herein and in the Loan Instruments delivered pursuant hereto shall survive the making by Lender of the Loan herein contemplated and the execution and delivery to Lender of the Note evidencing the Loan and shall continue in full force and effect so long as any portion of the Note is outstanding and unpaid. Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all covenants, promises and agreements by or on behalf of the Borrower which are contained in this Agreement shall enure to the benefit of the successors and assigns of Lender.

12. LENDER EXPENSES

The Borrower will pay all expenses, including counsel fees and disbursements, incurred by the Lender and Operator in connection with the enforcement and protection of the rights of the Lender or Operator under this Agreement or under the Loan Instruments made or the Note issued hereunder, and the reasonable fees, expenses and disbursements of Lender and Operator and their outside counsel at closing in connection with the preparation of this Agreement and the Loan Instruments and the making of the Loan hereunder.

APPLICABLE LAW

13. This Agreement and the Note shall be construed in accordance with and governed by the laws of the Province of Ontario.

MODIFICATION OF AGREEMENT

14. No modification, amendment or waiver of any provision of this Agreement or the Note, nor consent to any departure by the Borrower therefrom, shall in any event be effective unless the same shall be in writing and signed by the Lender and Operator (if Operator is not the Lender), and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in the same, similar or other circumstances.

WAIVER OF RIGHTS

15. Neither any failure nor any delay on the part of the Lender in exercising any right, power or privilege hereunder or under the Note shall operate as a waiver thereof, nor shall a single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

SEVERABILITY

16. In case any one or more of the provisions contained in this Agreement or the Note should be declared invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the validity, legality or enforce-

PROMISSORY NOTE

Canadian \$750,000.00

Winnipeg, Manitoba
August 14, 1985

For value received, LAKEVIEW DEVELOPMENT LTD. a Federal corporation and KING STREET HAMILTON HOTEL LIMITED PARTNERSHIP a limited partnership created under the laws of the Province of Ontario (collectively, the "Makers") jointly and severally promise to pay to the order of LAKEVIEW DEVELOPMENT OF CANADA LTD. ("lender" or "holder") at its offices at Winnipeg, Manitoba or at such other place as the Lender may designate from time to time, SEVEN HUNDRED AND FIFTY THOUSAND (C \$750,000.00) DOLLARS on or before August 13, 1998 which sum represents that advanced to the Makers on the date hereof in respect of the operation of the Hotel, as provided for and defined in that certain management agreement between the Makers and Lakeview Development Ltd. subject to the terms of that certain loan agreement of even date herewith between the Makers as "Borrower", the Lender, and Lakeview Development Ltd. as "Operator" (the "Loan Agreement"), and which sum further shall be deemed to be increased by that in respect of deferred interest hereunder, as hereinafter provided.

Interest on the principal amount of this Note outstanding from time to time shall be equal to the then current Prime Rate ("Prime Rate" means the annual rate of interest charged and generally announced by the Royal Bank of Canada from time to time as being its Prime Rate for substantial Canadian dollar demand loans in Canada), and shall be payable monthly in arrears and calculated based upon a 365/366 day year and the actual days elapsed. Notwithstanding the foregoing, during the first thirty-six (36) months of the term hereof, such interest shall accrue but payment thereof shall be deferred, the aggregate thereof from time to time being deemed to increase the aggregate principal amount due pursuant to this Note, to be subject to interest as otherwise herein provided, and to be due and payable on or before the term date set forth in the first paragraph of this Note. Beginning with the thirty-seventh (37th) month of the term hereof, the aggregate principal amount hereof (including deferred interest as aforesaid) shall be amortized and repaid in 120 level monthly installments due and payable in arrears at the same time as the interest payment hereunder is due and payable.

If any payment hereunder would otherwise be due on a day which is not a day on which banks are open for business in Winnipeg, it shall be due on the next day which is such a business day.

In the event of the happening of any one or more of the following, to wit: if principal, interest or any other sum payable on any liability of the undersigned to the holder, any affiliate or subsidiary thereof shall not be paid when due; or if the undersigned, any endorser or guarantor hereof shall become insolvent (however such insolvency may be evidenced), commit any act of bankruptcy, or make a general assignment for the benefit of creditors; or if the transaction of the usual business of the undersigned shall be suspended, or any proceeding, procedure or remedy supplementary to or in enforcement of judgment shall be resorted to or commenced against, or with respect to any property of, the undersigned or any such endorser or guarantor; or if a petition in bankruptcy or for relief under any law relating to the relief of debtors, readjustment of

of indebtedness, reorganization, composition or extension shall be filed, or any proceeding shall be instituted under any such law, by or against the undersigned or any such endorser or guarantor; or if any governmental authority or any court at the instance thereof shall take possession of any substantial part of the property of, or assume control over the affairs or operations of, or a receiver shall be appointed of, or of any substantial part of the property of, or a writ or order of attachment or garnishment shall be issued or made against any of the property of, the undersigned or any such endorser or guarantor; or if any indebtedness of the undersigned or any such endorser or guarantor for borrowed money shall become due and payable by acceleration or maturity thereof; or if the undersigned shall be dissolved or be a party to any merger or consolidation without the written consent of the holder hereof; or if the undersigned, any endorser or guarantor hereof should experience such a change in the condition or affairs of any of them as in the opinion of the holder, shall increase its credit risks or make its debt insecure; or if maker fails to comply with any term or condition of the Loan Agreement, or in the event of termination for any reason of the Management Agreement.

...THEN and in every such event, this Note and the present and future indebtedness, obligations and liabilities of any kind of the undersigned to the holder hereof, whether created directly or acquired by assignment, whether absolute or contingent, shall, unless the holder hereof shall otherwise elect, forthwith become and be due and payable, without demand or notice.

In addition to any other rights of the holder under applicable law, the holder shall have a lien on, and a security interest in, any and all property of the undersigned which may from time to time come in the possession, custody or control of the holder hereof, and the holder may at any time, without notice, apply the same to the note or such other liabilities, whether due or not. The undersigned and all endorsers, guarantors and other parties to this Note waive demand for payment, presentment, protest and notice of dishonor and any and all other notices and demands whatsoever, and further waive the right to interpose any counterclaim or set-offs of any kind on any litigation relating to this Note or any such other liabilities. Failure or delay of the holder to enforce any provisions of this Note shall not be deemed a waiver of any such provision, nor shall the holder be estopped from enforcing any such provision at a later time.

This Note and any guaranty or endorsement thereof shall be deemed to be governed by the laws of the Province of Ontario (without giving effect to provisions relating to conflicts of law) in all respects, including matters of construction, validity and performance, and it is understood and agreed that none of its terms or provisions may be waived, altered, modified, or amended except in writing.

Any legal action or proceeding arising out of or relating to this Note may be instituted in the courts of the Province of Ontario and the undersigned and all endorsers and guarantors submit to the jurisdiction of such courts in any such action or proceeding, provided, however, that the foregoing shall not limit the holder's rights to bring any legal action or proceeding in any other appropriate jurisdiction, in which event,

at the holder's option, the laws of such jurisdiction or of the Province of Ontario shall apply. If an attorney is used to enforce or collect this Note, the undersigned shall be obliged to pay all costs and expenses of collection, including reasonable attorney's fees.

LAKEVIEW DEVELOPMENT LTD.

PER: _____

KING STREET HAMILTON HOTEL LIMITED
PARTNERSHIP by its General Partner
127089 CANADA LTD.

PER: _____

SCHEDULE "B"

ACTIONS

NIL

SCHEDULE " C "

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Hamilton in the Regional Municipality of Hamilton-Wentworth in the Province of Ontario. And being composed of Part of Lots 1 and 2 and the unnumbered lot in Block 1, part of Lots 1 and 2 and the unnumbered lot in the Block bounded by Market, MacNab, King and Part Streets all according to DAVID KIRKENDALL SURVEY registered in the Land Registry Office for the Registry Division of Wentworth as Plan No. 39. And Part of Park Street immediately east of the said Block 1 (said Park Street now closed by the City of Hamilton By-Law No. 81-14 dated December 9, 1980, and registered in the said Land Registry Office as Instrument No. 174954 C.D.) and which said parcel may be more particularly described as all of Part 1 according to a reference plan received and deposited in the said Land Registry Office on April 22, 1980, as Plan No. 62R-5316.

Being the whole of Parcel 1-2

in the Leasehold Register for Section W-39(c)

THIS INDENTURE made as of the 14th day of August, 1985.

BETWEEN:

LAKEVIEW DEVELOPMENT LTD., a Federal Corporation continued under the Canada Business Corporations Act ("Lakeview") and KING STREET HAMILTON HOTEL LIMITED PARTNERSHIP (the "Limited Partnership") by its General Partner 127089 CANADA LTD.,

(Lakeview and the Limited Partnership together hereinafter called the "Mortgagor"),

OF THE FIRST PART,

-and-

LAKEVIEW DEVELOPMENT OF CANADA LTD., a Federal Corporation incorporated under the Canada Business Corporations Act,

(hereinafter called the "Mortgagee")

OF THE SECOND PART,

-and-

THE CORPORATION OF THE CITY OF HAMILTON,

(hereinafter called the "Lessor"),

OF THE THIRD PART.

WITNESSETH THAT:

WHEREAS by a Ground Lease dated as of the 3rd day of May, 1983 wherein Lakeview is the lessee and the Lessor is the lessor, the Lessor did demise and lease unto Lakeview the land therein described, which land (hereinafter called the "Leasehold Land") is herein described in Schedule "A" attached hereto, for and during the term of years to be computed from and inclusive of the 3rd day of May, 1983 and fully to be complete and ended on the 31st day of October, 2069 at and under the yearly rental, covenants, conditions and agreements expressed and declared in the Ground Lease, which lease was registered on the Schedule "A" land as Instrument No. 271066 C.D.;

AND WHEREAS the Ground Lease was amended by Agreements between the Lessor and Lakeview Development Ltd., which Agreements were dated and registered on the Schedule "A" land as follows:

May 3, 1983 Closing Agreement registered as Instrument No. 292838 C.D.; and

July 29, 1983 Amending Agreement registered as Instrument No. 292840 C.D.

AND WHEREAS by Sublease dated October 1, 1984, (the "Sublease") Lakeview, as Sublessor granted to the Mortgagor, as Sublessee, a Sublease of the Leasehold Lands which Sublease was registered on the Schedule "A" land as Instrument No. 153111 L.T.;

AND WHEREAS the Lessor, Lakeview, Second Phase Civic Square Limited and Fourth Phase Civic Square Limited have entered into an Interface Agreement dated as of July 30, 1984 in respect of the lands described therein including the land described in Schedule "A" attached hereto, which Agreement was registered on title to the Schedule "A" land as Instrument No. 161659 L.T.;

AND WHEREAS the Limited Partnership and Lakeview as Sublessees under the Sublease have given their undertaking (dated August 13, 1985) to the City to abide by and be bound by all of the terms, covenants and conditions of the Interface Agreement.

AND WHEREAS Lakeview, the Limited Partnership and Lakeview Development of Canada Ltd. entered into an Acquisition and Development Agreement dated October 1, 1984 whereby the Limited Partnership purchased from Lakeview an undivided one-half interest in the Hotel (as such capitalized term is defined therein);

AND WHEREAS the Lessor and Lakeview have agreed to enter into an Agreement, to be executed, in respect of a pedestrian bridge above King Street West to connect the Improvements of the Mortgagor on the land described in Schedule "A" attached hereto and to connect the adjacent premises in L.D. Jackson Square by means of a pedestrian bridge above King Street West for access to and from the Trade and Convention Centre and other facilities situated southerly of King Street West, which Agreement will be registered on title to the Schedule "A" land;

AND WHEREAS the Mortgagor has applied to the Mortgagee for a loan to be made to the Mortgagor on the security of, inter alia, the Leasehold Land and the term of years and on all buildings, improvements and

other structures to be erected on the Leasehold Land (hereinafter collectively called the "Leasehold Land and Premises") and the Mortgagee has agreed to lend to the Mortgagor the sum of EIGHTEEN MILLION (\$18,000,000.00) Dollars of lawful money of Canada upon and subject to the terms and conditions more particularly set out in a mortgage (hereinafter called the "Mortgage") to be secured against the Leasehold Land and Premises;

AND WHEREAS by the terms of the Ground Lease it is provided that Lakeview as lessee thereunder may at any time and from time to time mortgage or encumber the Leasehold Land and Premises provided that certain conditions have been complied with as more particularly set forth in Section 16.01 of the Ground Lease;

AND WHEREAS by the terms of the Sublease it is provided that the Mortgagor, as Sublessee, covenants to perform and observe all covenants and obligations on the part of Lakeview under and pursuant to the terms of the Ground Lease, as defined therein, and which covenants and obligations are adopted, mutatis mutandis, in the Sublease save for certain exceptions;

NOW THEREFORE in consideration of the premises:

1. The Mortgagee acknowledges and agrees that the Mortgage will be made expressly subject to the rights of the Lessor under the Ground Lease, and in particular to the right of the Lessor to acquire title to the Improvements as defined in the Ground Lease, upon expiration or termination of the Ground Lease, in accordance with and subject to the provisions and conditions of the Ground Lease.

2. The Mortgagee covenants and agrees with the Lessor that, contemporaneously with the giving of notice by the Mortgagee to the Mortgagor of any breach or default under the Mortgage, the Mortgagee will notify the Lessor in writing of such breach or default.

3. (a) The Mortgagee covenants and agrees with the Lessor that it shall be bound by all the covenants and obligations of the lessee under:

- (i) the Ground Lease;
- (ii) The Interface Agreement registered as Instrument Number 161659 L.T. and any agreement, lease, sublease or easement contemplated by the Interface Agreement to be entered into by the Mortgagor;
- (iii) the Pedestrian Bridge Agreement to be entered into between Lakeview Development Ltd. and the City, a draft of which the mortgagee acknowledges having received. The draft agreement is dated March 28, 1985, last revised as of November 27, 1985;
- (iv) the Sublease of the underground parking to the City as provided for in Section 22 of the Ground Lease, as agreed upon by Lakeview Development Ltd. and the City;
- (v) November 1, 1984 Lease Amending Agreement among Lakeview, the City and Citibank Canada;
- (vi) June 10, 1985 Encroachment Agreement with The Regional Municipality of Hamilton-Wentworth;
- (vii) August 1, 1985 Agreement to extend the construction time limit to October 3, 1985.

as soon as it, as Mortgagee under the Mortgage, enters in and for long as it remains in possession of such lessee's interest, or otherwise take steps to enforce its security which have the effect of depriving the lessee under the Ground Lease of the ability fully to perform those covenants and obligations, and upon the sale or transfer of the Leasehold Land and Premises following the realization by the Mortgagee of the security of the Mortgage or by the exercise of the power of sale of the Mortgage or otherwise, it shall obtain from the assignee of the Leasehold Land and Premises a covenant with the Lessor to perform all of the lessee's obligations under the Ground Lease and the agreements and documents referred to in subparagraphs (i) to (vii) (inclusive) but from and after the date that such assignee becomes bound by these obligations of the lessee and enters into possession of the Leasehold Land, the Mortgagee shall be relieved and fully discharged from performance thereafter of such covenants, agreements and obligations.

(b) Without limiting the generality of Section 3(a), the Mortgagee covenants and agrees with the Lessor that notwithstanding:

- (i) That some of the documents referred to in paragraphs 3(a)(ii) to (vii) (inclusive) remain to be completed and entered into, or, if executed, remain to be registered: and,
- (ii) That some of them may not be registered on title to the Hotel until after the registration of the Mortgage referred to herein:
 - (A) That the Mortgage from the Mortgagor to the Mortgagee referred to in this agreement is and shall be (in the manner and to the extent provided for in Section 3(a) above) subject to and subordinate to in all respects to the rights of the Lessor under those documents as those documents (including the rights of the Lessor therein) shall be agreed upon by the parties to those documents.
 - (B) That those documents (referred to in paragraph 3(a)(ii) to (vii) (inclusive)) shall be an encumbrance upon the Leasehold Land prior to the Mortgage in the same manner and to the same effect as if they had been dated and registered prior to the Mortgage.
 - (C) That if the Mortgage is registered prior to the registration of any of those documents, the Mortgagee agrees and undertakes to the Lessor to execute any agreements and to do all other acts and things as may reasonably be required by the Lessor to ensure that those documents are prior to the interest of the Mortgagee.

4. The Lessor covenants and agrees with the Mortgagee that the Mortgagee will be relieved and fully discharged of and from future performance of covenants, agreements and obligations in paragraph 3 hereof from and after the date on which the assignee of the Leasehold Land and Premises referred to in paragraph 3 hereof, covenants with the Lessor to perform all of the lessee's obligations under the Ground Lease as well as the other documents referred to in paragraph 3 hereof and enters into possession as aforesaid.

5. The Mortgagor and Mortgagee agree that Section 22.09 of the Ground Lease does not impose on the Lessor any obligation to perform any of the obligations of the Mortgagor under the Mortgage, the Loan Agreement between the Mortgagor and the Hotelier or to perform financial obligations of the Mortgagor under the Hotel Management Agreement referred to in Section 22.09 of the Ground Lease, nor does it subordinate the rights of the Lessor to receive rent and other sums payable to the

Lessor under the Ground Lease to amounts payable to the Hotelier or its nominee as Mortgagee under the Loan Agreement attached to the Hotel Management Agreement, nor does it require the City to pay any monies, under the Hotel Management Agreement, referred to in Section 22.09 of the Ground Lease, except as the City and the Hotelier may agree.

6. (a) Any notice in writing required or permitted to be given to the Mortgagor hereunder shall be given by registered mail, postage prepaid, addressed to:

Lakeview Development Ltd. and King Street
Hamilton Hotel Limited Partnership,
6th Floor - 185 Carlton Street
WINNIPEG, Manitoba
R3C 3J1

with copy sent contemporaneously to:

McJannet, Weinberg, Rich
Barristers and Solicitors
5th Floor - 185 Carlton Street
WINNIPEG, Manitoba
R3C 3J1

ATTENTION: J. T. McJannet, Q.C.

Any such notice mailed as aforesaid shall be deemed to be given to the Mortgagor on the fifth business day following the date of such mailing.

(b) Any notice in writing required or permitted to be given to the Mortgagee hereunder shall be given by registered mail, postage prepaid, addressed to:

Lakeview Development of Canada Ltd.
6th Floor - 185 Carlton Street
WINNIPEG, Manitoba
R3C 3J1

ATTENTION: Mr. J. Levit, President.

with copy sent contemporaneously to:

McJannet, Weinberg, Rich
Barristers and Solicitors
5th Floor - 185 Carlton Street
WINNIPEG, Manitoba R3C 3J1

ATTENTION: Mr. J. T. McJannet, Q.C.

Any such notice mailed as aforesaid shall be deemed to be given to the Mortgagee on the fifth business day following the date of such mailing.

(c) Any notice in writing required or permitted to be given to the Lessor shall be given by registered mail, postage prepaid, addressed to:

The City Clerk
The Corporation of the City of Hamilton
City Hall
71 Main Street West
HAMILTON, Ontario
L8N 3T4

Any such notice mailed as aforesaid shall be deemed to have been given to the Lessor on the fifth business day following the date of such mailing.

(d) Any party may at any time give notice to each of the other parties of any change of address of the party giving such notice and from and after the giving of such notice the address therein specified shall be deemed to be the address of such party.

7. Each of the parties hereto covenants and agrees with the others of them to do all such acts, matters and things as may be requisite and necessary to give full force and effect to the provisions of this Agreement and to carry out and perform the same in accordance with its terms.

8. The parties hereto covenant and agree that this Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

9. The words "Mortgagor", "Mortgagee" and "Lessor" where used herein shall include their respective successors and assigns.

10. This Indenture may be executed in several counterparts each of which when executed shall be deemed to be an original and such counterparts shall together constitute one and the same instrument.

11. Lakeview agrees to register this Agreement in duplicate on title to the leasehold land described in Schedule "A" and to provide the registered duplicate thereof to the Lessor. This Agreement shall be registered forthwith after the registration of the mortgage referred to in this agreement.

IN WITNESS WHEREOF the parties hereto have duly executed these presents.

LAKEVIEW DEVELOPMENT LTD.

PER: _____
Executive Vice-President

KING STREET HAMILTON HOTEL LIMITED
PARTNERSHIP, by its General Partner,
127089 CANADA LTD.

PER: _____
Vice-President

LAKEVIEW DEVELOPMENT OF CANADA LTD.

PER: _____

THE CORPORATION OF THE CITY OF HAMILTON

PER: _____
Mayor

PER: _____
Deputy Clerk

SCHEDULE " A "

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Hamilton in the Regional Municipality of Hamilton-Wentworth in the Province of Ontario. And being composed of Part of Lots 1 and 2 and the unnumbered lot in Block 1, part of Lots 1 and 2 and the unnumbered lot in the Block bounded by Market, MacNab, King and Part Streets all according to DAVID KIRKENDALL SURVEY registered in the Land Registry Office for the Registry Division of Wentworth as Plan No. 39. And Part of Park Street immediately east of the said Block 1 (said Park Street now closed by the City of Hamilton By-Law No. 81-14 dated December 9, 1980, and registered in the said Land Registry Office as Instrument No. 174954 C.D.) and which said parcel may be more particularly described as all of Part 1 according to a reference plan received and deposited in the said Land Registry Office on April 22, 1980, as Plan No. 62R-5316.

Being the whole of Parcel 1-2

in the Leasehold Register for Section W-39(c)

THIS INDENTURE made as of the 14th day of August, 1985.

BETWEEN:

LAKEVIEW DEVELOPMENT LTD., a Federal Corporation continued under the Canada Business Corporations Act ("Lakeview") and KING STREET HAMILTON HOTEL LIMITED PARTNERSHIP (the "Limited Partnership") by its General Partner 127089 CANADA LTD.,

(Lakeview and the Limited Partnership together hereinafter called the "Mortgagor"),

OF THE FIRST PART,

-and-

LAKEVIEW DEVELOPMENT OF CANADA LTD., a Federal Corporation incorporated under the Canada Business Corporations Act,

(hereinafter called the "Mortgagee")

OF THE SECOND PART,

-and-

THE CORPORATION OF THE CITY OF HAMILTON,

(hereinafter called the "Lessor"),

OF THE THIRD PART.

WITNESSETH THAT:

WHEREAS by a Ground Lease dated as of the 3rd day of May, 1983 wherein Lakeview is the lessee and the Lessor is the lessor, the Lessor did demise and lease unto Lakeview the land therein described, which land (hereinafter called the "Leasehold Land") is herein described in Schedule "A" attached hereto, for and during the term of years to be computed from and inclusive of the 3rd day of May, 1983 and fully to be complete and ended on the 31st day of October, 2069 at and under the yearly rental, covenants, conditions and agreements expressed and declared in the Ground Lease, which lease was registered on the Schedule "A" land as Instrument No. 271066 C.D.;

AND WHEREAS the Ground Lease was amended by Agreements between the Lessor and Lakeview Development Ltd., which Agreements were dated and registered on the Schedule "A" land as follows:

May 3, 1983 Closing Agreement registered as Instrument No. 292838 C.D.; and

July 29, 1983 Amending Agreement registered as Instrument No. 292840 C.D.

AND WHEREAS by Sublease dated October 1, 1984, (the "Sublease") Lakeview, as Sublessor granted to the Mortgagor, as Sublessee, a Sublease of the Leasehold Lands which Sublease was registered on the Schedule "A" land as Instrument No. 153111 L.T.;

AND WHEREAS the Lessor, Lakeview, Second Phase Civic Square Limited and Fourth Phase Civic Square Limited have entered into an Interface Agreement dated as of July 30, 1984 in respect of the lands described therein including the land described in Schedule "A" attached hereto, which Agreement was registered on title to the Schedule "A" land as Instrument No. 161659 L.T.;

AND WHEREAS the Limited Partnership and Lakeview as Sublessees under the Sublease have given their undertaking (dated August 13, 1985) to the City to abide by and be bound by all of the terms, covenants and conditions of the Interface Agreement.

AND WHEREAS Lakeview, the Limited Partnership and Lakeview Development of Canada Ltd. entered into an Acquisition and Development Agreement dated October 1, 1984 whereby the Limited Partnership purchased from Lakeview an undivided one-half interest in the Hotel (as such capitalized term is defined therein);

AND WHEREAS the Lessor and Lakeview have agreed to enter into an Agreement, to be executed, in respect of a pedestrian bridge above King Street West to connect the Improvements of the Mortgagor on the land described in Schedule "A" attached hereto and to connect the adjacent premises in L.D. Jackson Square by means of a pedestrian bridge above King Street West for access to and from the Trade and Convention Centre and other facilities situated southerly of King Street West, which Agreement will be registered on title to the Schedule "A" land;

AND WHEREAS the Mortgagor has applied to the Mortgagee for a loan to be made to the Mortgagor on the security of, inter alia, the Leasehold Land and the term of years and on all buildings, improvements and

other structures to be erected on the Leasehold Land (hereinafter collectively called the "Leasehold Land and Premises") and the Mortgagee has agreed to lend to the Mortgagor the sum of SEVEN HUNDRED & FIFTY THOUSAND (\$750,000.00) Dollars of lawful money of Canada upon and subject to the terms and conditions more particularly set out in a debenture (hereinafter called the "Mortgage") to be secured against the Leasehold Land and Premises;

AND WHEREAS by the terms of the Ground Lease it is provided that Lakeview as lessee thereunder may at any time and from time to time mortgage or encumber the Leasehold Land and Premises provided that certain conditions have been complied with as more particularly set forth in Section 16.01 of the Ground Lease;

AND WHEREAS by the terms of the Sublease it is provided that the Mortgagor, as Sublessee, covenants to perform and observe all covenants and obligations on the part of Lakeview under and pursuant to the terms of the Ground Lease, as defined therein, and which covenants and obligations are adopted, mutatis mutandis, in the Sublease save for certain exceptions;

NOW THEREFORE in consideration of the premises:

1. The Mortgagee acknowledges and agrees that the Mortgage will be made expressly subject to the rights of the Lessor under the Ground Lease, and in particular to the right of the Lessor to acquire title to the Improvements as defined in the Ground Lease, upon expiration or termination of the Ground Lease, in accordance with and subject to the provisions and conditions of the Ground Lease.

2. The Mortgagee covenants and agrees with the Lessor that, contemporaneously with the giving of notice by the Mortgagee to the Mortgagor of any breach or default under the Mortgage, the Mortgagee will notify the Lessor in writing of such breach or default.

3. (a) The Mortgagee covenants and agrees with the Lessor that it shall be bound by all the covenants and obligations of the lessee under:

- (i) the Ground Lease;
- (ii) The Interface Agreement registered as Instrument Number 161659 L.T. and any agreement, lease, sublease or easement contemplated by the Interface Agreement to be entered into by the Mortgagor;
- (iii) the Pedestrian Bridge Agreement to be entered into between Lakeview Development Ltd. and the City, a draft of which the mortgagee acknowledges having received. The draft agreement is dated March 28, 1985, last revised as of November 27, 1985;
- (iv) the Sublease of the underground parking to the City as provided for in Section 22 of the Ground Lease, as agreed upon by Lakeview Development Ltd. and the City;
- (v) November 1, 1984 Lease Amending Agreement among Lakeview, the City and Citibank Canada;
- (vi) June 10, 1985 Encroachment Agreement with The Regional Municipality of Hamilton-Wentworth;
- (vii) August 1, 1985 Agreement to extend the construction time limit to October 3, 1985.

as soon as it, as Mortgagee under the Mortgage, enters in and for long as it remains in possession of such lessee's interest, or otherwise take steps to enforce its security which have the effect of depriving the lessee under the Ground Lease of the ability fully to perform those covenants and obligations, and upon the sale or transfer of the Leasehold Land and Premises following the realization by the Mortgagee of the security of the Mortgage or by the exercise of the power of sale of the Mortgage or otherwise, it shall obtain from the assignee of the Leasehold Land and Premises a covenant with the Lessor to perform all of the lessee's obligations under the Ground Lease and the agreements and documents referred to in subparagraphs (ii) to (vii) (inclusive) but from and after the date that such assignee becomes bound by these obligations of the lessee and enters into possession of the Leasehold Land, the Mortgagee shall be relieved and fully discharged from performance thereafter of such covenants, agreements and obligations.

(b) Without limiting the generality of Section 3(a), the Mortgagee covenants and agrees with the Lessor that notwithstanding:

(i) That some of the documents referred to in paragraphs 3(a)(i) to (vii) (inclusive) remain to be completed and entered into, or, if executed, remain to be registered; and,

(ii) That some of them may not be registered on title to the Hotel until after the registration of the Mortgage referred to herein:

(A) That the Mortgage from the Mortgagor to the Mortgagee referred to in this agreement is and shall be (in the manner and to the extent provided for in Section 3(a) above) subject to and subordinate to in all respects to the rights of the Lessor under those documents as those documents (including the rights of the Lessor therein) shall be agreed upon by the parties to those documents.

(B) That those documents (referred to in paragraph 3(a)(i) to (vii) (inclusive)) shall be an encumbrance upon the Leasehold Land prior to the Mortgage in the same manner and to the same effect as if they had been dated and registered prior to the Mortgage.

(C) That if the Mortgage is registered prior to the registration of any of those documents, the Mortgagee agrees and undertakes to the Lessor to execute any agreements and to do all other acts and things as may reasonably be required by the Lessor to ensure that those documents are prior to the interest of the Mortgagee.

4. The Lessor covenants and agrees with the Mortgagee that the Mortgagee will be relieved and fully discharged of and from future performance of covenants, agreements and obligations in paragraph 3 hereof from and after the date on which the assignee of the Leasehold Land and Premises referred to in paragraph 3 hereof, covenants with the Lessor to perform all of the lessee's obligations under the Ground Lease as well as the other documents referred to in paragraph 3 hereof and enters into possession as aforesaid.

5. The Mortgagor and Mortgagee agree that Section 22.09 of the Ground Lease does not impose on the Lessor any obligation to perform any of the obligations of the Mortgagor under the Mortgage, the Loan Agreement between the Mortgagor and the Hotelier or to perform financial obligations of the Mortgagor under the Hotel Management Agreement referred to in Section 22.09 of the Ground Lease, nor does it subordinate the rights of the Lessor to receive rent and other sums payable to the

Lessor under the Ground Lease to amounts payable to the Hotelier or its nominee as Mortgagee under the Loan Agreement attached to the Hotel Management Agreement, nor does it require the City to pay any monies, under the Hotel Management Agreement, referred to in Section 22.09 of the Ground Lease, except as the City and the Hotelier may agree.

6. (a) Any notice in writing required or permitted to be given to the Mortgagor hereunder shall be given by registered mail, postage prepaid, addressed to:

Lakeview Development Ltd. and King Street
Hamilton Hotel Limited Partnership,
6th Floor - 185 Carlton Street
WINNIPEG, Manitoba
R3C 3J1

with copy sent contemporaneously to:

McJannet, Weinberg, Rich
Barristers and Solicitors
5th Floor - 185 Carlton Street
WINNIPEG, Manitoba
R3C 3J1

ATTENTION: J. T. McJannet, Q.C.

Any such notice mailed as aforesaid shall be deemed to be given to the Mortgagor on the fifth business day following the date of such mailing.

(b) Any notice in writing required or permitted to be given to the Mortgagee hereunder shall be given by registered mail, postage prepaid, addressed to:

Lakeview Development of Canada Ltd.
6th Floor - 185 Carlton Street
WINNIPEG, Manitoba
R3C 3J1

ATTENTION: Mr. J. Levit, President

with copy sent contemporaneously to:

McJannet, Weinberg, Rich
Barristers and Solicitors
5th Floor - 185 Carlton Street
WINNIPEG, Manitoba R3C 3J1

ATTENTION: Mr. J. T. McJannet, Q.C.

Any such notice mailed as aforesaid shall be deemed to be given to the Mortgagee on the fifth business day following the date of such mailing.

(c) Any notice in writing required or permitted to be given to the Lessor shall be given by registered mail, postage prepaid, addressed to:

The City Clerk
The Corporation of the City of Hamilton
City Hall
71 Main Street West
HAMILTON, Ontario
L8N 3T4

Any such notice mailed as aforesaid shall be deemed to have been given to the Lessor on the fifth business day following the date of such mailing.

(d) Any party may at any time give notice to each of the other parties of any change of address of the party giving such notice and from and after the giving of such notice the address therein specified shall be deemed to be the address of such party.

7. Each of the parties hereto covenants and agrees with the others of them to do all such acts, matters and things as may be requisite and necessary to give full force and effect to the provisions of this Agreement and to carry out and perform the same in accordance with its terms.

8. The parties hereto covenant and agree that this Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

9. The words "Mortgagor", "Mortgagee" and "Lessor" where used herein shall include their respective successors and assigns.

10. This Indenture may be executed in several counterparts each of which when executed shall be deemed to be an original and such counterparts shall together constitute one and the same instrument.

11. Lakeview agrees to register this Agreement in duplicate on title to the leasehold land described in Schedule "A" and to provide the registered duplicate thereof to the Lessor. This Agreement shall be registered forthwith after the registration of the mortgage referred to in this agreement.

IN WITNESS WHEREOF the parties hereto have duly executed these presents.

LAKEVIEW DEVELOPMENT LTD.

PER: _____
Executive Vice-President

KING STREET HAMILTON HOTEL LIMITED
PARTNERSHIP, by its General Partner,
127089 CANADA LTD.

PER: _____
Vice-President

LAKEVIEW DEVELOPMENT OF CANADA LTD.

PER: _____

THE CORPORATION OF THE CITY OF HAMILTON

PER: _____
Mayor

PER: _____
Deputy Clerk

SCHEDULE "A"

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Hamilton in the Regional Municipality of Hamilton-Wentworth in the Province of Ontario. And being composed of Part of Lots 1 and 2 and the unnumbered lot in Block 1, part of Lots 1 and 2 and the unnumbered lot in the Block bounded by Market, MacNab, King and Part Streets all according to DAVID KIRKENDALL SURVEY registered in the Land Registry Office for the Registry Division of Wentworth as Plan No. 39. And Part of Park Street immediately east of the said Block 1 (said Park Street now closed by the City of Hamilton By-Law No. 81-14 dated December 9, 1980, and registered in the said Land Registry Office as Instrument No. 174954 C.D.) and which said parcel may be more particularly described as all of Part 1 according to a reference plan received and deposited in the said Land Registry Office on April 22, 1980, as Plan No. 62R-5316.

Being the whole of Parcel 1-2

in the Leasehold Register for Section W-39(c)

FOR ACTION

7.a.

FROM LACAC DATE April 23, 1987
TO Planning and Development Committee Refer To File No. _____
Attention Of _____
Your File No. _____

SUBJECT

St. Clair Heritage District

RECOMMENDATION

That the Planning and Development Committee authorize and direct staff to investigate and report on the deletion of the installation of tape decks, radios, stereos, muffler shops and installation of sunroofs from "H" (Community Shopping and Commercial, etc.)

Carol Thompson

BACKGROUND

At its meeting held March 30, 1987, LACAC endorsed the resolution from the St. Clair Heritage District Advisory Committee to submit the above recommendation to the Planning and Development Committee. See also attached memo.

JT:kjk



THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

Planning and Development Department
71 Main Street West, Hamilton, Ontario L8N 3T4

March 9, 1987

Refer to File No.

P5-8-4-5

Attention of

Your File No.

MEMORANDUM

TO: Nina Chapple
Architectural Historian

FROM: David Godley
Manager, Neighbourhood Plans

RE: Noisy Commercial Uses
St. Clair Heritage Conservation District
Advisory Committee (SCHDAC)

The Council adopted a policy on noisy uses for the St. Clair Heritage Conservation District as follows:

'Commercial uses on Main Street will be limited to compatible uses with adjoining residential uses. Noisy commercial uses should not be allowed...'

In conjunction with the Development Section we have worked out a zoning amendment which would help the situation in St. Clair and the rest of the City. SCHDAC passed a resolution on March 4th, 1987 that 'installation of tape decks, radios and stereos; muffler shops and installation of sun roofs be deleted from the 'H' (Community Shopping and Commercial, etc.) zoning category as part of the annual omnibus amendment to the zoning by-law'.

Please could you take this matter to LACAC for endorsation and referral to the Planning and Development Department.

DG/jd David.

8.

F O R A C T I O N

FROM Planning and Development Department

DATE April 14, 1987

TO Planning and Development Committee

Refer To File No. ZA-87-15
LAWFIELD
NEIGHBOURHOOD

Attention Of V. J. Abraham

SUBJECT

Request for a further modification to the "DE-2" (Multiple Dwellings) District for the property located at No. 45 Lockton Crescent. The purpose of the proposed modification is to permit the erection of an internally illuminated ground sign not greater than 1.8 m in height and 2.7 m² in area fronting on Upper Gage Avenue indicating the location of the existing nursing home on Lockton Crescent.

RECOMMENDATION

That approval be given to Zoning Application 87-15, Apans Health Services, owner, requesting a further modification to the "DE-2" (Multiple Dwellings) District, to permit the erection of an internally illuminated ground sign not greater than 1.8 m in height and 2.7 m² in area fronting on Upper Gage Avenue indicating the location of the existing nursing home on Lockton Crescent, for the property located at No. 45 Lockton Crescent, on the following basis:

- 1) That the "DE-2" (Multiple Dwellings) District regulations as contained in Section 10B of Zoning By-Law No. 6593 applicable to the subject lands be modified to include the following variances as special requirements:
 - i) That notwithstanding Section 10B(1), the following accessory use shall be permitted in any yard:
 - a) a ground sign not greater than 1.8 m in height and not greater than 2.7 m² in area
 - ii) That notwithstanding Section 10B(3) a ground sign not greater than 1.8 m in height and not greater than 2.7 m² in area shall be permitted no closer than 6 m to all property lines.
 - iii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S - , and that the subject lands on Zoning District Map E-38A be notated S - ;

- iv) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-38A;
 - v) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.
- 2) That the subject property be exempt from Site Plan Control By-law No. 79-275.


EXPLANATORY NOTE

The purpose of the By-law is to provide for a further modification to the "DE-2" (Multiple Dwellings) District Regulations for the property located at No. 45 Lockton Crescent.

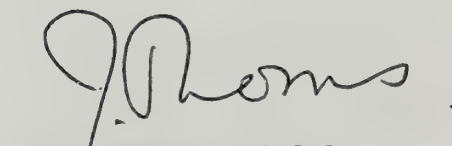
The effect of the By-Law is to permit the erection of an internally illuminated ground sign not greater than 1.8 m in height and 2.7 m² in area as an accessory use fronting on Upper Gage Avenue indicating the location of the existing nursing home on Lockton Crescent.

In addition, the By-law provides for the following variances:

- o the ground sign shall not be permitted any closer than 6.0 m to all property lines; and
- o the ground sign shall be permitted in any yard.



V. J. Abraham, M.C.I.P.
Director of Local Planning



J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development

APPLICANT

Apans Health Services, owner.

LOT SIZE AND AREA

- o 172.48 m (565.87 ft.) of lot frontage on Lockton Crescent.
- o 107.22 m to 146.3 m (351.78 ft. to 480 ft.) of lot depth.
- o 19,133 m² (205,952 sq. ft.) of lot area.

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>SUBJECT LANDS</u>	3 storey, 180 bed nursing home	"DE-2" (Multiple Dwellings) District
<u>SURROUNDING LANDS</u>		
To the north	Vacant	"G" (Neighbourhood Shopping Center) District
To the south	Single family dwellings vacant	"AA" (Agricultural) District
To the east	Attached housing	"E-2" (Multiple Dwellings) District
To the west	One and two family dwelling	"D" (Urban Protected Residential - One and Two Family Dwelling) District

OFFICIAL PLAN

The subject lands are designated "Residential" on Schedule "A". The proposal complies.

NEIGHBOURHOOD PLAN

The subject lands are designated for "Low Density Apartments" in the Approved Lawfield Neighbourhood. The proposed sign conforms to the Neighbourhood Plan.

BACKGROUND

The applicant intends to erect a sign 2.7 m² in size having a maximum height of 1.8 m. The sign will be illuminated from the interior, thereby, minimizing the light deflection onto existing uses.

The access to the nursing home property is from Lockton Crescent only although the building is visible from Upper Gage Avenue also.

The applicant wishes to erect the sign so he may have exposure on both streets.

COMMENTS RECEIVED

- o The Hamilton Region Conservation Authority and Traffic Department have no comments or objections.
- o The Building Department has advised that variances are required.
- o The Hamilton Wentworth Engineering Department has advised in part that:

"The applicant should be advised of a future road widening in conjunction with the construction of the future on-ramp and interchange of Upper Gage Avenue and the East-West Transportation facility, as shown on the attached plan." (See attached letter for full comments).

COMMENTS

1. The proposal complies with both the Official Plan and Approved Lawfield Neighbourhood Plan.
2. The proposal merits consideration for the following reasons:
 - a) the sign is small in size and therefore it would be compatible with the surrounding land uses.
 - b) it gives the nursing home identification on both Lockton Crescent and Upper Gage Avenue. This requirement is important especially to ambulance drivers.
 - c) it complies with both the Official Plan and Approved Lawfield Neighbourhood Plan.
3. Under the "DE-2" District regulations, the sign would be subject to Site Plan Control By-Law 79-275. However, in this case, Site Plan Control should be waived since the owner has submitted plans to the Department's satisfaction indicating the proposed location. In addition, restrictions have been included in the By-law to ensure that the sign is placed 6 m (20 ft.) away from all property lines.

CONCLUSION

Based on the foregoing, the proposal can be supported.

JH:nd

WP DOC. 0424P

C/S-156

ST. GEORGE'S
SEPARATE
SC-GOL 50

G/S-156a

DE/S-236

BERYL ST.

SITE PLAN CONTROL
BY-LAW NO. 70-200

FOLKSTONE

AVENUE

LAWSON ST.

DRIVE

D/S-156

CRESCENT

DE-2/S156

LOCKTON

LAWN HURST

GAGE

BLOCK B

BLOCK A

E-2/S-165

BLOCK C

BLOCK D

BLOCK F

BLOCK E

BLOCK G

AA

EAST

LIMERIDGE

ROAD

SITE PLAN CONTROL
BY-LAW NO. 70-200

E-2/S-156

AA

MOUNTAIN

FREEWAY

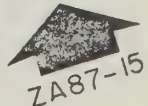
LEGEND



SITE OF GRACE VILLA NURSING HOME



LOCATION OF PROPOSED SIGN



APPENDIX A



THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

Department of Engineering
71 Main Street West, Hamilton, Ont. L8N 3T4

(416) 526-4170

PLANNING & DEVELOPMENT
LOCAL PLANNING BRANCH

TO	STAFF	INIT.	INFO.	ACT.
DIR.				
P.R.A.				
PLANNING				

ID #0067D(12)

March 18, 1987

✓	OK.	✓		
✓	Refer to File No.	✓		
	Attention of	✓		
	Your File No.	✓		

E220-1202

K.A. Brenner

ZA-87-15

TO: V. J. Abraham, Director, Planning Department

FROM: K. A. Brenner, Engineering Department

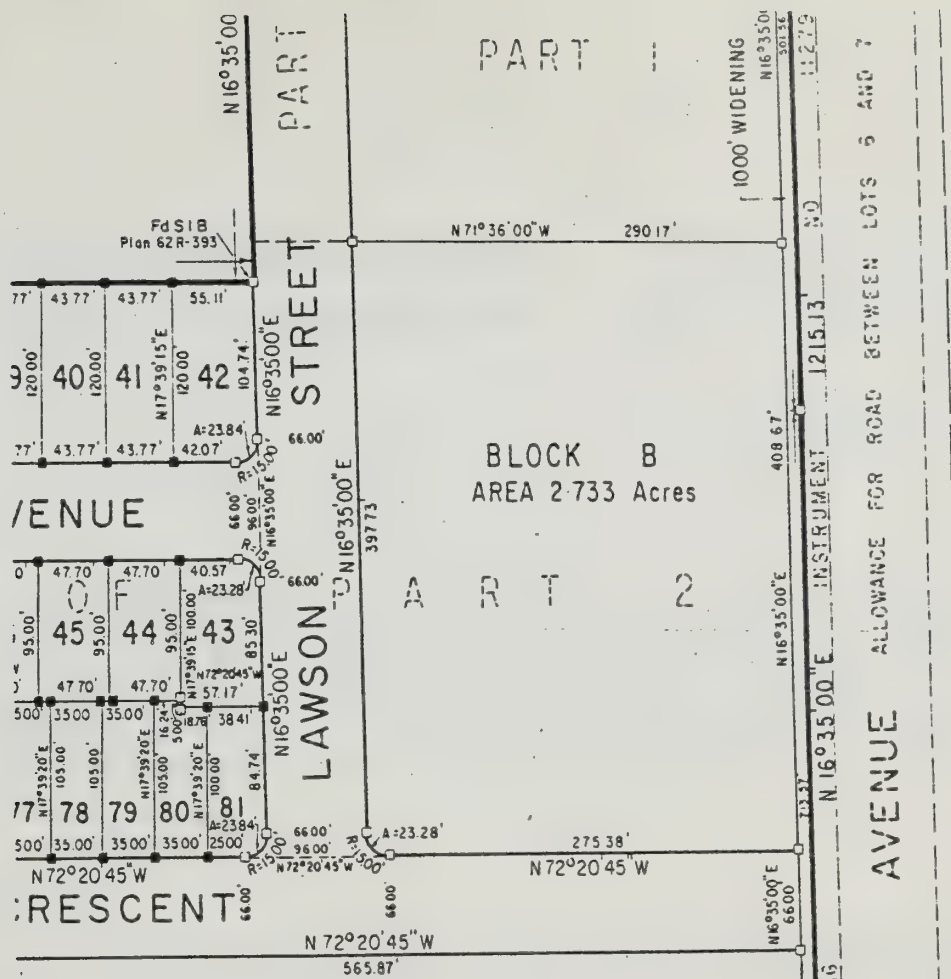
RE: Zoning Application ZA-87-15, by Apans Health Services, for a modification to "DE-2" District regulations to permit building identification sign at property located at 45 Lockton Crescent

Please be advised that public watermains as well as storm sewers and sanitary sewers are available to service the subject lands.

All road widenings, required to establish the designated road allowance width of Upper Gage Avenue have been acquired by plan 62M-119.

The applicant should be advised of a future road widening in conjunction with the construction of the future on-ramp and interchange of Upper Gage Avenue and the East-West Transportation facility, as shown on the attached plan.

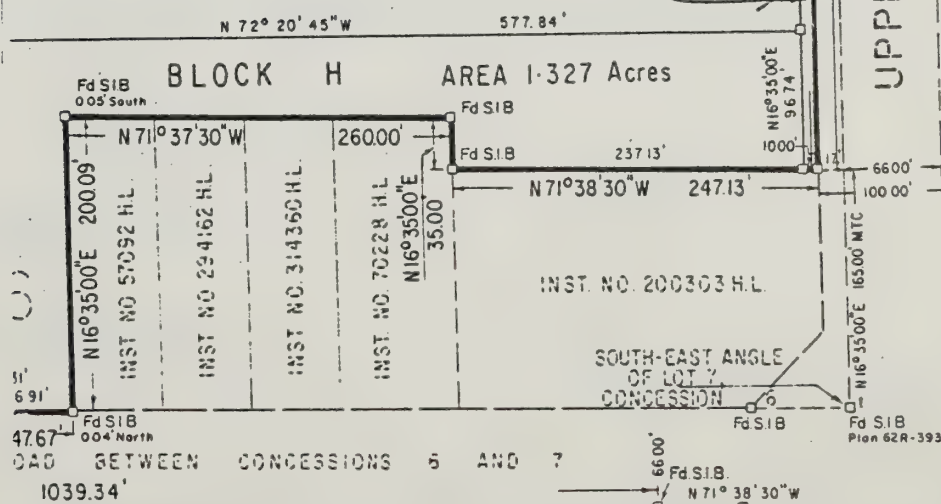
K.A. Brenner
FAR:lj
Attach.



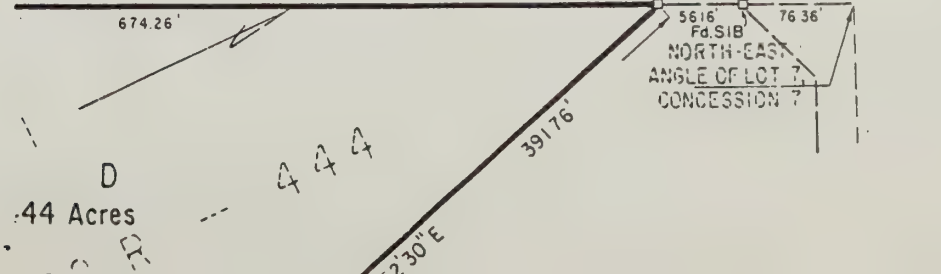
A N 62 R - 393

BLOCK C
AREA 3.401 Acres

Future 10' widening for on-ramp terminal



Plan M-119



FOR ACTION

9.

FROM Planning and Development Department

DATE April 22, 1987

TO Planning and Development Committee

Refer To File No. ZA-87-21

HOMESIDE
NEIGHBOURHOOD

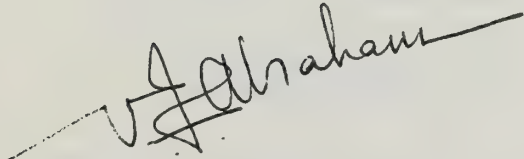
Attention Of V. J. Abraham

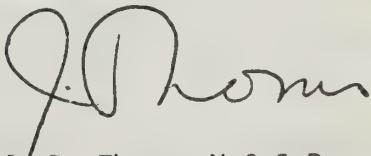
SUBJECT

Request for a modification to the established "H" (Community Shopping and Commercial, etc.) District regulations applicable to property located at No. 1491 Main Street East. The purpose of the modification is to replace the frame roofed walkway in front of the existing restaurant building with a permanent solarium for the purpose of increasing the seating capacity of the restaurant from a maximum of 56 persons to a maximum of 81 persons.

RECOMMENDATION

1. That Zoning Application 87-21 Aceti's Pizzeria and Tavern Ltd., owner, requesting a modification to the established "H" (Community Shopping and Commercial, etc.) District regulations applicable to property located at No. 1491 Main Street East, as shown on the attached map marked as APPENDIX "A" be denied for the following reasons:
 - a) 4 additional parking spaces would be required for the proposed 25 seat solarium building addition which cannot be provided on the site as required by the Zoning By-law.
 - b) approval of the application as submitted may add to problems associated with on-street parking in the surrounding area.


V. J. Abraham, M.C.I.P.
Director of Local Planning


J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development

APPLICANT

Aceti's Pizzeria and Tavern Ltd., owner.

LOT SIZE AND AREA

- 10.66 m (35.0 ft.) of lot frontage on Main Street West;
- 30.48 m (100.0 ft.) of lot flankage on Barons Avenue; and,
- 325.15 m² (3,500 sq. ft.) of lot area.

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	1 storey brick building containing a restaurant	"H" (Community Shopping and Commercial, etc.) District
<u>Surrounding Lands</u>		
To the north	Single-family and two-family dwellings	"C" (Urban Protected Residential, etc.) District
To the south	Single-family and two-family dwellings	"H" (Community Shopping and Commercial, etc.) District
To the east	Mixed use commercial/residential development	"H" (Community Shopping and Commercial, etc.) District
To the west	Commercial uses and one and two family dwellings	"H" (Community Shopping and Commercial, etc.) District and "C" (Urban Protected Residential, etc.) District

OFFICIAL PLAN

Designated "Commercial", the proposal complies.

NEIGHBOURHOOD PLAN

Designated "Commercial" on the approved Homeside Neighbourhood Plan, the proposal complies.

BACKGROUND

Existing Operation

The applicant has an established encroachment agreement with the City of Hamilton with respect to the lease of boulevard lands for the purpose of a seasonable outdoor patio.

Economic Factors

The applicant has advised that the proposed addition to the restaurant will result in the creation of approximately 10 new jobs. The project will involve approximately 30 construction related jobs for employees of firms located in the City of Hamilton.

COMMENTS RECEIVED

- The Building Department has advised that:
"Lack of parking on the lot is legally non-conforming for the existing restaurant and tavern. The patio is exempt under Section 18(11) of By-Law No. 6593. The increased capacity to 81 persons will require a variance for zero parking instead of the required 14 parking spaces on the same lot as required."
- The City Licence Administrator has no objections.
- The Traffic Department has advised that:
"The existing 56 seat restaurant would require the provision of 10 parking stalls under the current zoning by-law requirements. These parking requirements are not currently provided on site. The proposed addition will increase the seating capacity to 81 people requiring 14 parking stalls. We anticipate that the approval of this application will result in a higher frequency of vehicle intrusion into the adjacent resident's area."
- The Hamilton-Wentworth Engineering Department - see comments attached.
- The Hamilton Region Conservation Authority has no objection.
- The Liquor Licence Board of Ontario has verbally advised that the premises are licenced to accommodate a maximum of 76 persons inside under a dining lounge licence and a maximum of 51 persons outside under a patio licence. The maximum capacity at any given time cannot exceed 76 persons (total). The public Health Act with respect to the availability of washroom facilities would also apply to regulate the maximum seating capacity.

COMMENTS

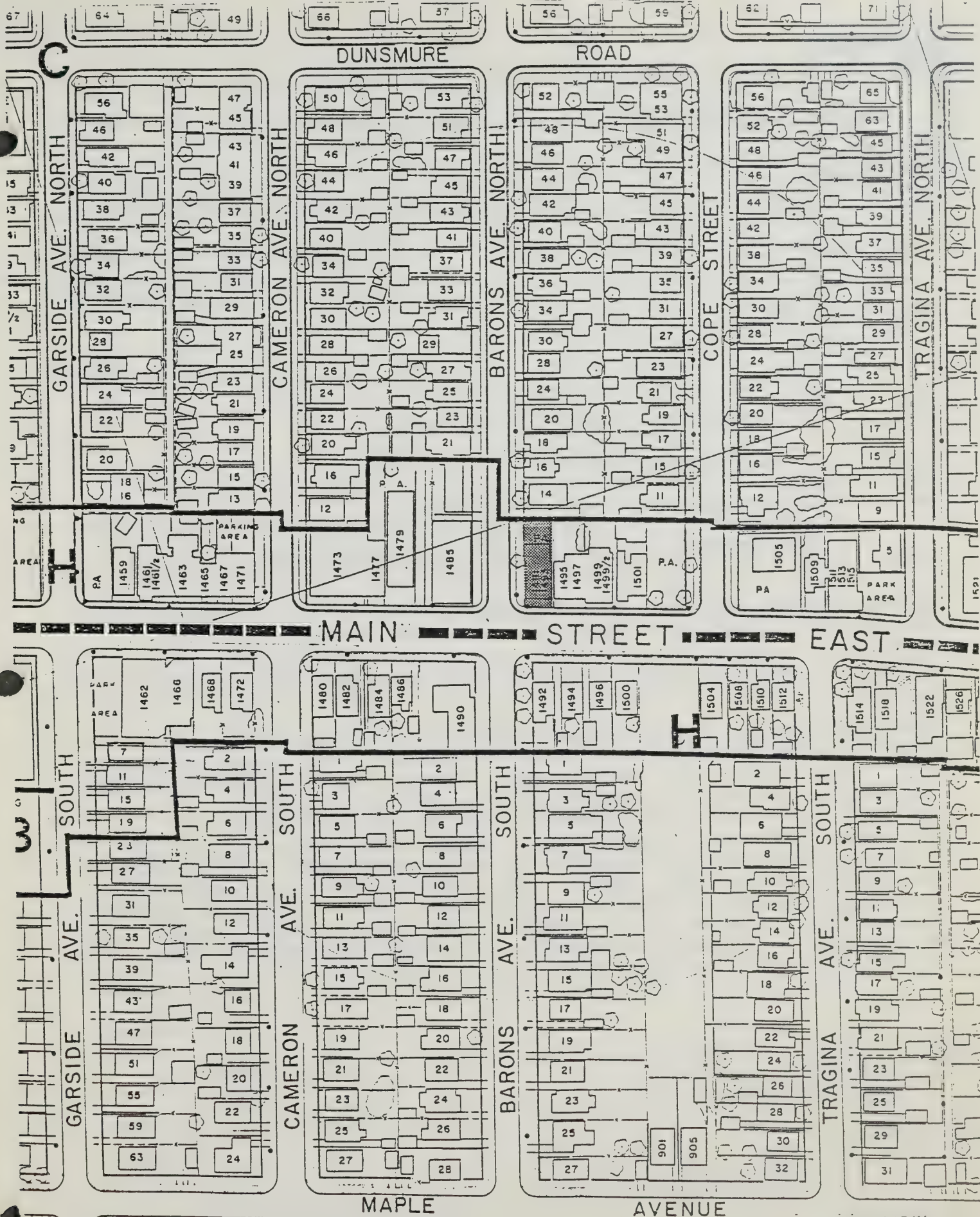
1. The proposal complies with the intent of both the Official Plan and the approved Homeside Neighbourhood Plan.
2. The proposal to increase the seating capacity of the established pizzeria and tavern by 25 persons (56 persons to 81 persons) by the construction of a solarium addition to the front of the building cannot be supported because:
 - 4 additional parking spaces would be required for the proposed 25 seat solarium building addition which cannot be provided on the site as required by the Zoning By-Law;
 - under its current status the existing restaurant and outdoor patio is legal non conforming in terms of providing 10 off-street parking spaces for the current seating capacity of 56 persons.
 - approval of the application as submitted may add to problems associated with on-street parking in the surrounding area.

CONCLUSION

It is recommended that the application as submitted be denied.

G.A.W.:nd

W.P. DOC. 0466P



APPENDIX A

ZAB7-21



THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

Department of Engineering
71 Main Street West, Hamilton, Ont. L8N 3T4 (416) 526-4170

I.D. #0067D(48)

Refer to File No. E220-0803
Attention of K. A. Brenner
Your File No. ZA-87-21

April 16, 1987

TO: V. J. Abraham, Planning Department
FROM: K. A. Brenner, Engineering Department
RE: Zoning Application ZA-87-21 for a
Modification to "H" District Regulations
for Property Located at 1491 Main Street East

Please be advised that public watermains as well as combined storm and sanitary sewers are available to service the subject lands.

We do not anticipate any further road allowance widenings at this time.

The applicant has been advised and is taking appropriate actions to amend his boulevard cafe license to reflect uses such as awnings, etc. Any other work within the adjacent road allowance(s) must conform to the City of Hamilton Streets By-Law.

It is the applicant's intention to construct a solarium in front of the existing building towards the Main Street East road allowance. We have reviewed the matter and advise that all buildings and associated fascia or siding, handrailing, etc. is to be setback a minimum of 0.381m (1.25 feet) from the Barons Avenue road allowance. No other obstructions are permitted closer to the corner which would obstruct visibility at the intersection.

K. A. Brenner, P. Eng.
Planning Manager

TLH TLH:mp

10.

F O R A C T I O N

FROM Planning and Development Department

DATE April 23, 1987

TO Planning and Development Committee

Refer To File No. ZA-87-22

CORKTOWN
NEIGHBOURHOOD

Attention Of V. J. Abraham

SUBJECT

Request for a change in zoning from "L-mr-2" (Planned Development - Multiple Residential) District to "E-3" (High Density Multiple Dwellings) District, modified, for the properties located at Nos. 169-179 Hunter Street East. The purpose of the proposed change is to permit the construction of a 9 storey, 34 unit condominium apartment building.

RECOMMENDATION

That approval be given to Zoning Application 87-22, Forest James Investments Ltd., prospective owner, requesting a change in zoning from "L-mr-2" (Planned Development - Multiple Residential) District to "E-3" (High Density Multiple Dwellings) District, modified, to permit the construction of a 9 storey, 34 unit condominium apartment building, for the properties located at Nos. 169-179 Hunter Street East, as shown on the attached map marked as APPENDIX "A", on the following basis:

- i) That the subject lands be rezoned from "L-mr-2" (Planned Development - Multiple Residential) District to "E-3" (High Density Multiple Dwellings) District;
- ii) That the "E-3" (High Density Multiple Residential) District regulations as contained in Section 11C of Zoning By-Law No. 6593 applicable to the subject lands be modified to include the following variances as special requirements:
 - a) That notwithstanding Section 11C(1a), the maximum height shall be 9 storeys.
 - b) That notwithstanding Section 11C(2)(b) a minimum southerly side yard of 4.87 m shall be provided.
 - c) That notwithstanding Section 11C(4), the floor area ratio shall not exceed 2.35.
- iii) That notwithstanding Section 18A.(1)(c), a loading space 9.0 m by 3.7 m shall be provided.
- iv) That notwithstanding Section 18A.(9), the required manoeuvring space shall be located offsite.
- v) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S - , and that the subject lands on Zoning District Map E-5 be notated S - ;

- vi) That the City Solicitor be directed to prepare a By-law to amend Zoning by-law No. 6593 and Zoning District Map E-5;
- vii) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

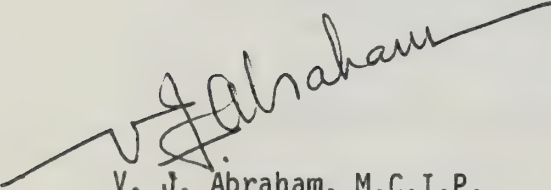
EXPLANATORY NOTE

The purpose of this By-law is to provide for a change in zoning from "L-mr-2" (Planned Development - Multiple Residential) District to "E-3" (High Density Multiple Residential) District, modified.

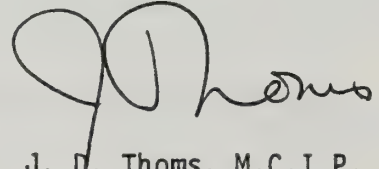
The effect of the By-Law is to permit the construction of a 9 storey, 34 unit condominium apartment building.

In addition, the following variances are required:

- a) to limit the height to 9 storeys whereas the By-law permits 18 storeys.
- b) to allow a southerly side yard of 4.87 m instead of the required 5.79 m.
- c) to allow a floor area ratio of 2.35 instead of the permitted 1.9.
- d) to provide a loading space 9 m x 3.7 m instead of the required 18 m x 3.7 m.
- e) to allow the maneuvering area for the loading space to be located offsite.



V. J. Abraham, M.C.I.P.
Director of Local Planning



J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development

APPLICANT

Forest James Investments, Ltd.

LOT AREA AND SIZE

- o 35.36 m (116.0 ft.) of lot frontage of Hunter Street East.
- o 42.65 m (139.92 ft.) of lot depth.
- o 1,507.82 m² (16,230.72 sq. ft.) of lot area.

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	Parking lot, 2 family dwellings	"L-mr-2" (Planned Development - Multiple Residential) District
<u>Surrounding Lands</u>		
To the north	Two family dwelling	"L-mr-2" (Planned Development - Multiple Residential) District
To the south	20 storey apartment building	"E-2" (Multiple Dwellings) District
To the east	Single family dwellings	"L-mr-2" (Planned Development - Multiple Residential) District
To the west	Light industry	"J" (Light and Limited Heavy Industry) District

OFFICIAL PLAN

The subject lands are designated Central Policy Area on Schedule "A". A variety of uses are permitted including residential, institutional, industrial, etc. provided compatibility is maintained. The proposal complies.

NEIGHBOURHOOD PLAN

The subject lands are designated "Medium Density Apartments". The proposal complies.

CENTRAL AREA PLAN

The subject lands are designated "Neighbourhood Residential" on the Central Area Plan. The proposal generally complies. In addition, the Central Area Plan encourages the preservation of heritage buildings. The building located on the site is listed by L.A.C.A.C. Since the building is being demolished, the proposal would not comply with this section of the Plan.

COMMENTS RECEIVED

- o The Hamilton Region Conservation Authority, Traffic Department, GO Transit and the Ministry of the Environment have no comments or objections.

- o The Canadian National Railway does not favour the locating of any new residential development adjacent to their operated right of way.
- o The Hamilton Wentworth Engineering Department has advised that:
"Please be advised that public watermain as well as combined storm and sanitary sewers are available at the site. The existing sewers are below present day design criteria. We are not recommending against the development, as the proposed use is from a sewer service viewpoint similar to that originally permitted.

A 2.134 m (7 foot) road widening on Ferguson Avenue, adjacent to the subject lands is required and its dedication to the City of Hamilton is warranted from an engineering standpoint as a condition of approval of this application. However, should the applicant wish to request relief from this condition, application must be made to the Transport and Environment Committee of the City of Hamilton.

For your information, Ferguson Avenue, from Hunter Street to Barton Street, is designated to have a road allowance width of 24.384 m (80 feet) in the future. In accordance with this policy, the City of Hamilton has acquired a 1.134 m (7 foot) road widening along the east side of Ferguson Avenue, from Hunter Street to Jackson Street. No additional road widening is anticipated on the west side of Ferguson Avenue for municipal purposes. In addition, the Hamilton Setback By-law No. 75-61, which prescribed building setbacks on roads in the central Business District, from the streetlines, does not include this road widening.

According to our survey plans, there is a wire fence within the existing Ferguson Avenue road allowance, which is in contravention to the Hamilton Streets By-Law and is there at the risk of the owner. (See Appendix "B").

COMMENTS

1. The proposal complies with the Official Plan.
2. The proposal complies with the approved Corktown Neighbourhood Plan.
3. The proposal complies, in part, with the Central Area Plan.
4. The buildings located on the site are on LACAC's list of architecturally and historically significant buildings.
5. The proposal merits consideration for the following reasons:
 - a) it is compatible with the surrounding uses including a 20-storey apartment building to the south;

- b) it will be an improvement to the existing land use - an unpaved parking lot;
- c) the building design is innovative since some of the units are multi-level.
- d) additional residential units will be provided in close proximity to downtown.

6. Approval of the application would require the following variances:

o Height (Section 11C(1a))

The proposed development will be 9 storeys in height; the By-law permits 18 storeys. In order to ensure greater compatibility with the surrounding land uses, the building should be limited to 9 storeys.

o Yard Requirements (Section 11C(2)(b))

The proposed southerly side yard is 4.87 m instead of the required 5.79 m. The variance is minor in nature and therefore may be supported.

o Floor Area Ratio (Section 11C(4))

The proposed floor area ratio is 2.35 (including all bonuses) and the By-law will permit 1.9 times the lot coverage. The 1.9 floor area ratio includes the bonuses allowed for the excess landscaping.

Since the applicant is able to provide the required number of parking spaces for 3,584.78 m² (38,200 sq. ft.) of floor area and has provided landscaping over and above the minimum required, the increase in floor area ratio may be supported.

o Loading Space and Manoeuvring Area (Section 18A)

The proposed development would include a 9.0 m by 3.7 m loading space whereas the By-law requires 18.0 m by 3.7 m.

In addition, the manoeuvring area will be off-site instead of on-site.

The provision of a small loading appears to be adequate for the needs of the apartment building. Due to site limitations, the manoeuvring area cannot be provided on-site.

Based on the foregoing, the variances may be supported.

7. Under the "E-3" District regulations the lands are subject to Site Plan Control By-Law 79-275. Matters such as access, parking, landscaping, etc. will be reviewed during the site plan approval process.

CONCLUSION

Based on the foregoing, the proposal can be supported.

J.H.:nd

W.P. DOC. 0467P



ZA-87-22

O.T. SPRINGER SVY.
REGISTERED PLAN NO. 48

2 1/2 ST. BRICK HOUSES

2 ST BRICK HOUSES

4

5

HOUSE 2.52' SOUTH
VERANDA 1.12' NORTH
NO. 166 1ST. ROUGH-CAST HOUSE

HOUSE 2.78' SOUTH

WALL 0.48' NORTH

1" WIDE CONC. WALL

WALL 0.69' NORTH

O.T. SPRINGER SVY.
REGISTERED PLAN NO. 48

ENLARGEMENT SCALE 1" = 40'

AVE.

FERGUSON

HUNTER

NO. 152
STEPS 2.98' NORTH

BAY 4.15' SOUTH
NO. 154

STEPS 1.09' NORTH

NO. 156
BAY 3.87' SOUTH

NO. 158
BAY 3.76' SOUTH
STEPS 2.30' NORTH
HOUSE 6.85' SOUTH

BAY 12.34' SOUTH
NO. 160

NO. 162
BAY 11.46' SOUTH
HOUSE 14.48' SOUTH

305.98' N 69° 03' 27" W
303.93' N 69° 03' 57" W
303.93' N 69° 04' 21" W

N 157° 15' 36.99"
E 90° 31' 76.80"

65.95' N 69° 03' 27" W
66.00' N 69° 01' 50" W

14.74' N 20° 56' 33" E

N 157° 15' 42.95"
E 90° 31' 97.78"

65.95' N 69° 01' 30" W

N 157° 15' 405.95"
E 90° 32' 59.35"

157° 15' 38.82"
90° 32' 12.01"

BRICK BUILDING

BLDG. 0.06' SOUTH

BRICK GARAGE

GAR. 5.92' NORTH

NO. 159 1 1/2 ST. BRICK HOUSE

NO. 163 2 ST. BRICK HOUSE

HOUSE 5.65' NORTH

NO. 167 1 ST. STONE HOUSE

STEPS 2.50' SOUTH

HOUSE 6.90' NORTH

NO. 169
2 ST. BRICK HOUSES
NO. 171

FENCE 0.70' NORTH

WIRE FENCE

FENCE
0.73' NORTH

N 18° 29' 25" E

AVE.

N 18° 29' 02" E

FENCE 0.85' NORTH

O.T. SPRINGER SVY.
REGISTERED PLAN NO. 48

Z 4-87-22

APPENDIX B

11.

FOR ACTION

FROM Planning and Development Department

DATE March 19, 1987

TO Planning and Development Committee

Refer To File No. ZA-87-24

Delta East Neighbourhood

Attention Of V. J. Abraham

SUBJECT

Request for a modification to the established "C" (Urban Protected Residential, etc.) District regulations applicable to property located at No. 1635 King Street East. The purpose of the modification is to increase the number of dwelling units from the permitted maximum dwelling of two, to a maximum of three units. Off-street parking for four cars is to be provided on the site.

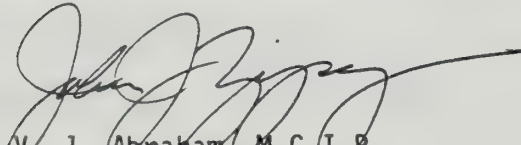
RECOMMENDATION

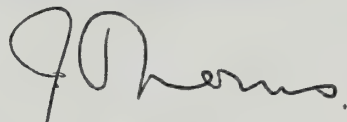
1. That approval be given to Zoning Application 87-24, Mr. Dale K. H. Badour, owner, for a modification to the established "C" (Urban Protected Residential, etc.) District regulations applicable to property located at No. 1635 King Street East, as shown on the attached map marked as APPENDIX "A", on the following basis:
 - i) That the "C" (Urban Protected Residential, etc.) District regulations as contained in Section 9 of Zoning By-Law No. 6593 applicable to the subject lands, be modified to include the following variance as a special requirement:
 - a) That notwithstanding Section 9(1) of By-Law No. 6593, a maximum of three dwelling units shall be permitted within the existing building;
 - ii) That notwithstanding Section 18A(1)(f) of By-Law No. 6593, the manoeuvring space for required parking may be provided off-site.
 - iii) That the amending By-Law be added to Section 19B of Zoning By-Law No. 6593 as Schedule S- , and that the subject land on Zoning District Map E-56 be notated S- ;
 - iv) That the City Solicitor be directed to prepare a By-Law to amend Zoning By-Law No. 6593 and Zoning District Map E-56;
 - v) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

EXPLANATORY NOTE

The purpose of the By-Law is to provide for a modification to the established "C" (Urban Protected Residential, etc.) District regulations applicable to the property at No. 1635 King Street East, as shown on the attached map.

The effect of the By-Law is to permit conversion of the existing dwelling from a maximum of two dwelling units to a maximum of three dwelling units.


V. J. Abraham, M.C.I.P.
Director of Local Planning


J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development

APPLICANT

Mr. Dale K. H. Badour, owner.

LOT SIZE AND AREA

- 24.71 m (81.08 ft.) of lot frontage, on King Street East;
- 36.88 m (121.0 ft.) of lot depth; and,
- 0.952 m² (10,250 sq. ft.) of lot area.

LAND USE AND ZONING

	<u>EXISTING ZONING</u>	<u>EXISTING ZONING</u>
<u>Subject Lands</u>	Duplex dwelling	"C" (Urban Protected Residential, etc.) District
<u>Surrounding Lands</u>		
To the north	Single-family dwellings	"C" (Urban Protected Residential, etc.) District
To the south	Single-family dwellings	"D" (Urban Protected Residential, One and Two Family Dwellings, etc.) District
To the east	Single-family dwellings	"C" (Urban Protected Residential, etc.) District
To the west	Single-family dwellings	"C" (Urban Protected Residential, etc.) District

OFFICIAL PLAN

Designated "Residential", the proposal complies.

NEIGHBOURHOOD PLAN

A neighbourhood plan is not available for the Delta East Neighbourhood.

COMMENTS RECEIVED

- The Building Department has advised that:
"The proposed use is contrary to Sections 9(1) and 19 of By-Law No. 6593. The parking spaces at the north end of the lot shall provide the required 6.0 m (19.69 ft.) maneuvering space on the lot as per Section 18A(1)(f) of By-Law No. 6593, although it serves no purpose in this situation."
- The Traffic Department has advised that "The application is satisfactory, however, we would prefer the off-street parking spaces being provided, as shown in red on the attached plan".
- The Hamilton-Wentworth Engineering Department has no objection.
- The Local Architectural Advisory Committee Staff has advised that the building is not listed and they have no comments.
- The Hamilton Region Conservation Authority has no objection.

COMMENTS

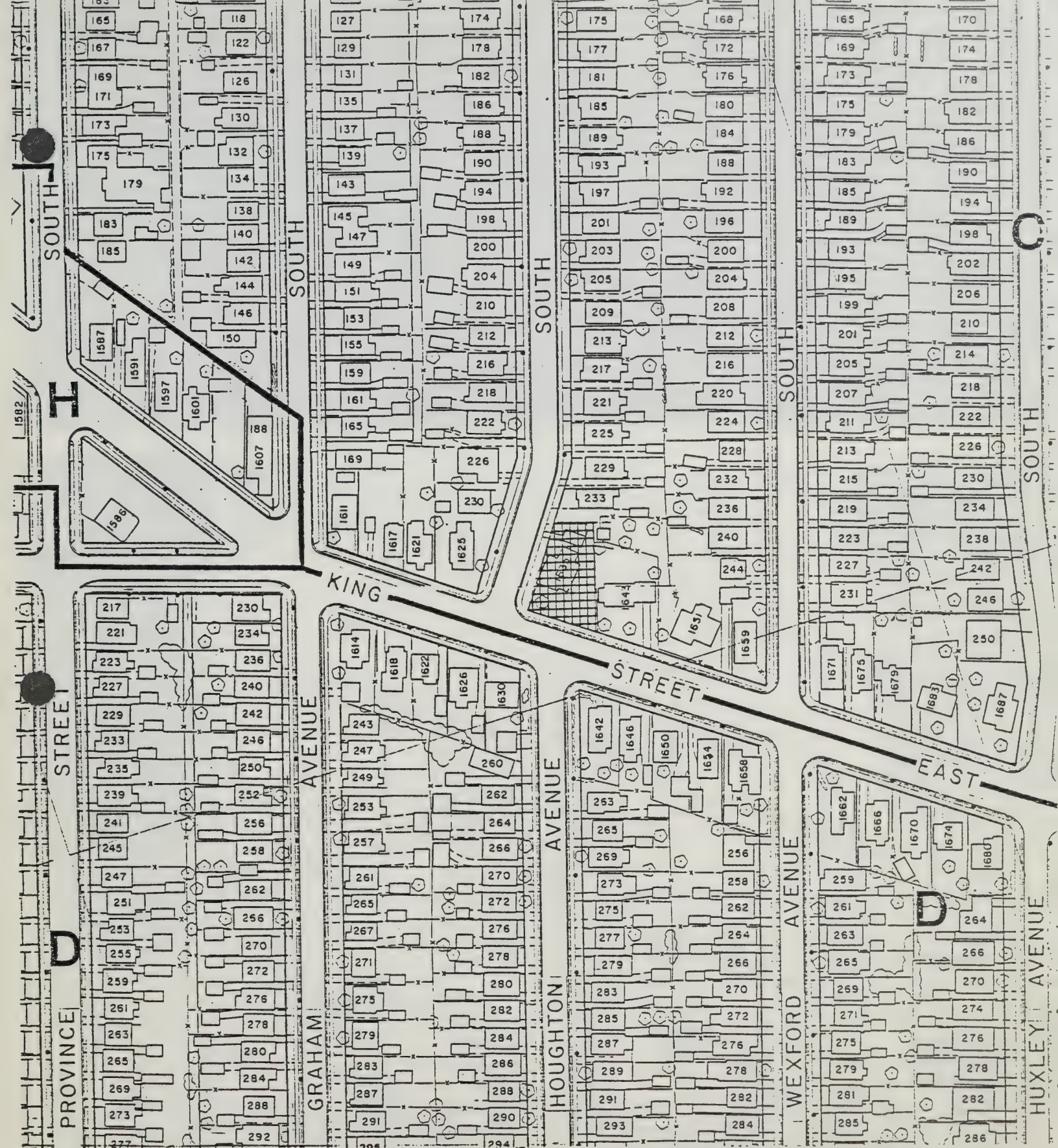
1. The proposal complies with the Official Plan.
2. The proposal has merit and can be supported for the following reasons:
 - a) the property in question is occupied by a large two-storey dwelling which lends itself to conversion;
 - b) the property is situated at the intersection of a busy major arterial road (King Street East) and Houghton Avenue South;
 - c) the property has a lot area in excess of 0.93 m² (10,000 sq. ft.) and could accommodate the four required parking spaces, and still maintain sufficient open space for use by the tenants. However, a variance would be required with respect to a manoeuvring space off site (Section 18A(1)(f) of By-Law 6593. This variance is considered minor in nature and can be supported. The Traffic Department prefers parking layout No. 1 over parking layout No. 2.

- d) conversion of the existing building to a maximum of three dwelling units should have minimal impact on existing developments in this area as the proposal would not alter its exterior appearance.
- 3. Conversion of the dwelling is subject to the provisions of Section 19 of Zoning By-Law No. 6593.

CONCLUSION

On the basis of the foregoing, the proposal can be supported.

GW:cs
Attach.
WPDOC 0421P



LEGEND



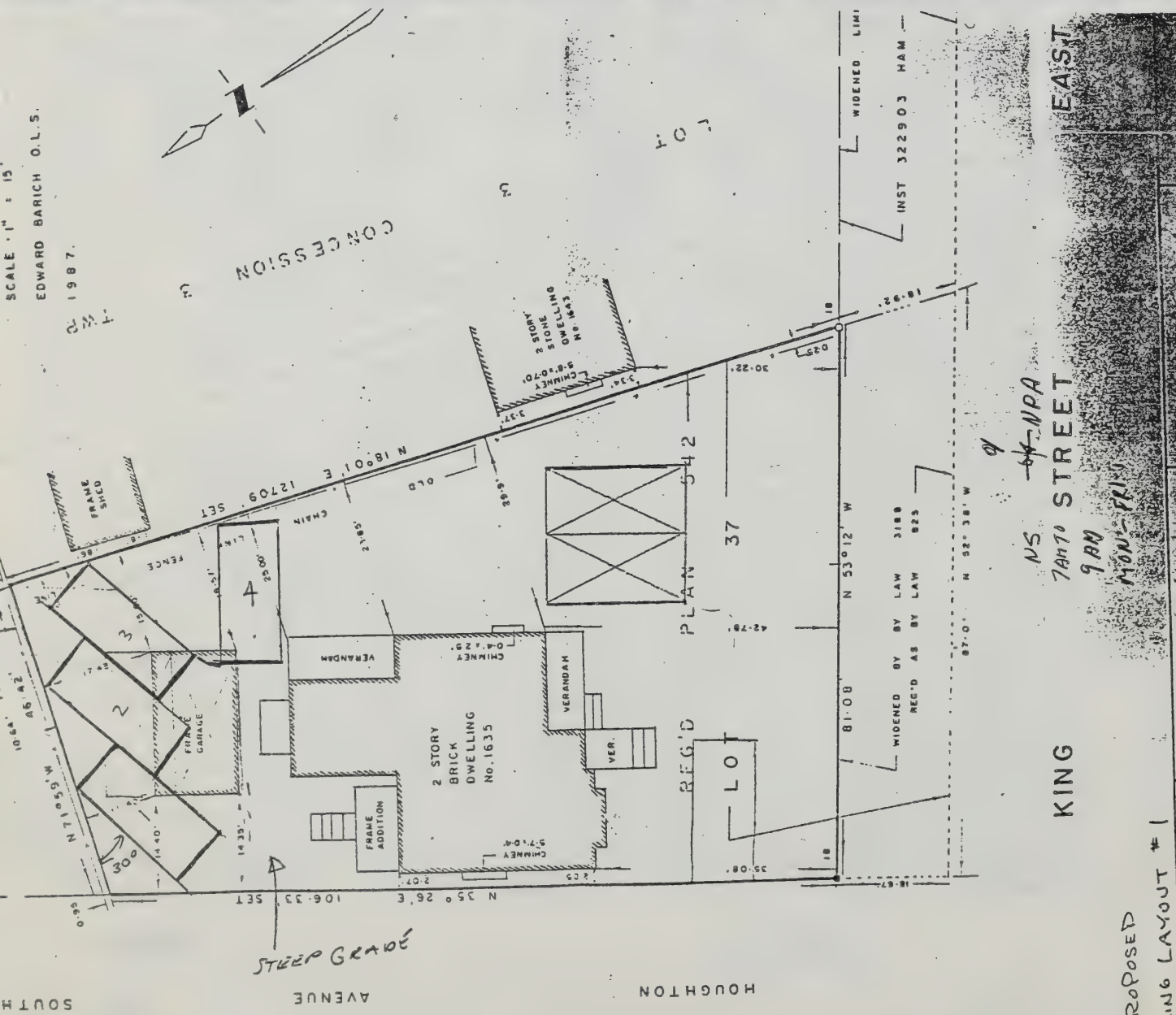
SITE OF THE APPLICATION

APPENDIX A



ZA 87-24

SCALE 1" = 15'
EDWARD BARICH O.L.S.
1987.



EAST

NS 1700-1700
9 AM

KING

7 AM 10 STREET

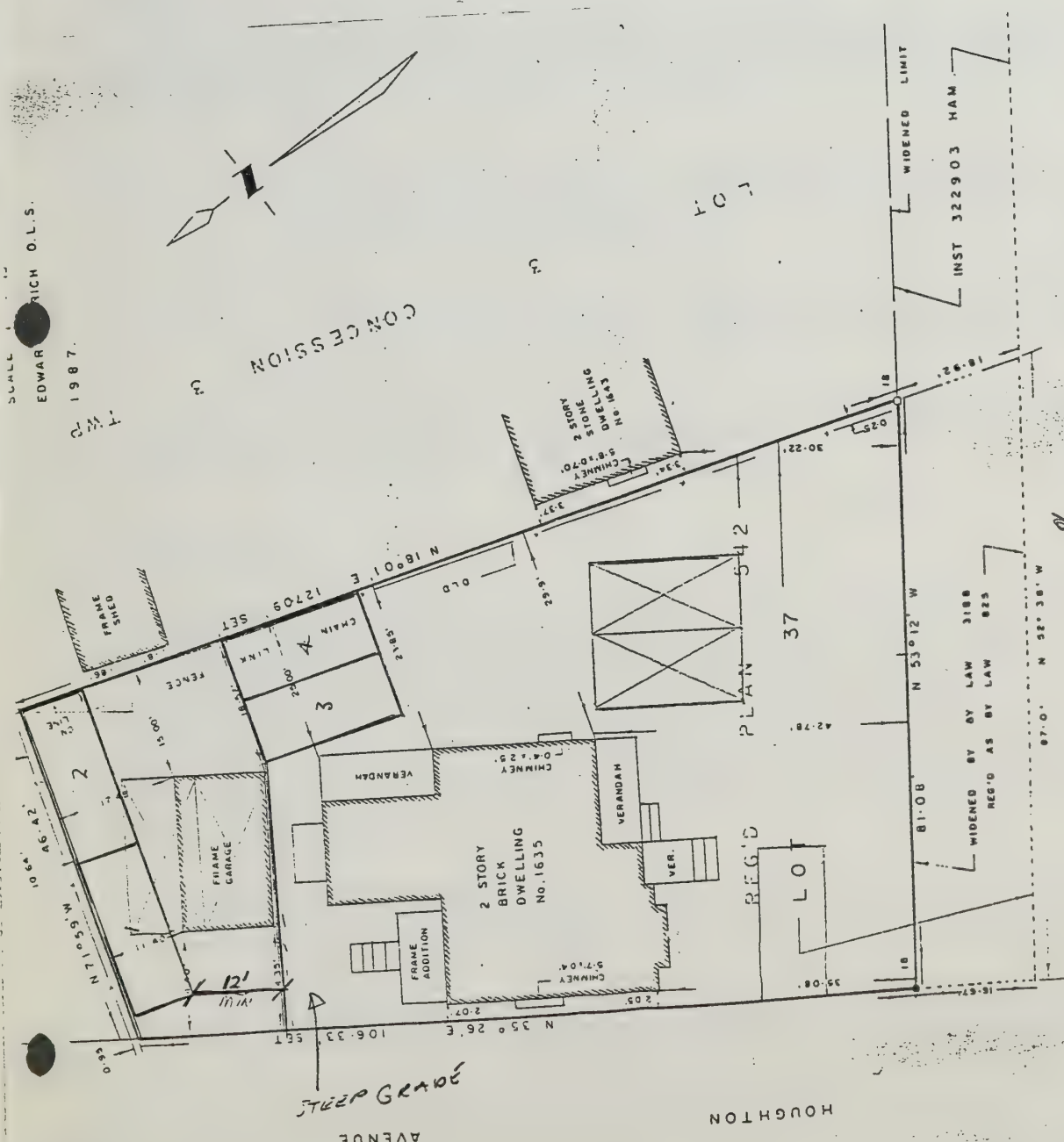
PROPOSED
PARKING LAYOUT #1

NOTE:
BEARINGS ARE ASTROMOMIC AND ARE REFERRED
TO THE NORTHERN LIMIT OF KING STREET
EAST AS SHOWN ON REGISTERED PLAN

LEGEND
■ DENOTES SURVEY MONUMENT FOUND
□ DENOTES SURVEY MONUMENT SET
CM DENOTES CONCRETE MONUMENT
SIB DENOTES STANDARD 'IRON' BAR

SURVEYOR'S CERTIFICATE
I CERTIFY THAT
THE FIELD SURVEY REPRESENTED ON
THIS PLAN WAS COMPLETED ON THE
15 DAY OF JANUARY 1987

SCALE 1" = 40' EDWARD RICH O.L.S. 1987



EAST

NS - NPA 7470 STREET 9 PM MON-FRI

KING

PROPOSED PARKING LAYOUT #2

SURVEYOR'S CERTIFICATE

I CERTIFY THAT REPRESENTED ON THE FIELD SURVEY WAS COMPLETED ON THE 13TH DAY OF JANUARY 1987

LEGEND
 DENOTES SURVEY MONUMENT FOUND
 DENOTES SURVEY MONUMENT SET
 CM DENOTES CONCRETE MONUMENT
 SIB DENOTES STANDARD IRON BAR
 SIB DENOTES ROUND IRON BAR

12.

FROM	<u>Planning and Development Department</u>	DATE	<u>April 22, 1987</u>
TO	<u>Planning and Development Committee</u>	Refer to File No.	ZA-87-32 (ZA-86-37)
			<u>CORKTOWN</u> <u>NEIGHBOURHOOD</u>
		Attention Of	V. J. Abraham

SUBJECT

Further amended application requesting changes in zoning for the properties located at Nos. 194 to 214 Forest Avenue and No. 88 Aurora Street, on the following basis:

- Block "1" - Change in zoning from "D" (Urban Protected Residential - One and Two-Family Dwellings, etc.) District to "DE-3" (Multiple Dwellings) District, modified;
- Block "2" - Change in zoning from "J" (Light and Limited Heavy Industrial, etc.) District, modified, to "DE-3" (Multiple Dwellings) District, modified;

The purpose of the proposed change in zoning is to demolish the existing buildings and permit development of the subject lands for a four-storey apartment building having a maximum of 51 units.

RECOMMENDATION

That approval be given to a further amended Zoning Applications 87-32, (86-37) Homestarts Inc., prospective owner, for a change in zoning from "D" (Urban Protected Residential - One and Two-Family Dwellings, etc.) District and "J" (Light and Limited Heavy Industrial, etc.) District, modified, to "DE-3" (Multiple Dwellings) District, modified, to permit the development of the subject lands for a four-storey apartment building having a maximum of 51 units for properties located at Nos. 194 to 214 Forest Avenue and No. 88 Aurora Street, as shown on the attached map marked as APPENDIX "A" on the following basis:

- i) That the lands shown as Block "1" be rezoned from "D" (Urban Protected Residential - One and Two-Family Dwellings, etc.) District to "DE-3" (Multiple Dwellings) District;
- ii) That the lands shown as Block "2" be rezoned from "J" (Light and Limited Heavy Industrial, etc.) District to "DE-3" (Multiple Dwellings) District;

- iii) That the "DE-3" (Multiple Dwelling) District regulations as contained in Section 10C of Zoning By-law No. 6593, applicable to the lands shown as Blocks "1" and "2", be modified to include the following variances as special requirements:
 - a) That notwithstanding Section 10C(2) a maximum building height of four storeys shall be permitted;
 - b) That notwithstanding Section 10C(5) a maximum of 51 dwelling units shall be permitted;
 - c) That notwithstanding Section 10C(5), a maximum gross floor area of 4800 m² shall be permitted.
- iv) That notwithstanding Section 18A.(1)(c), a loading space of 9.0 m by 3.7 m in size shall be provided;
- v) That Section 18A (11) shall not apply;
- vi) That Section 18A (12)(a) shall not apply;
- vii) That notwithstanding Section 18A (12)(c), a visual barrier not less than 1.2 m in height and not greater than 2.0 m in height shall be provided along the westerly lot line adjacent to the parking area;
- viii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S- , and that the subject lands on Zoning District Map E-5 be notated S- ;
- ix) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-5; and,
- x) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

EXPLANATORY NOTE

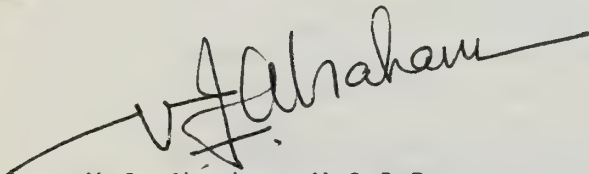
The purpose of the By-law is to provide for changes in zoning for properties located at Nos. 194 to 214 Forest Avenue and No. 88 Aurora Street, as shown on the attached plan marked as APPENDIX "A", on the following basis:

- Block "1" - Change from "D" (Urban Protected Residential One and Two-Family Dwellings, etc.) District to "DE-3" (Multiple Dwellings District, modified;
- Block "2" - Change from "J" (Light and Limited Heavy Industrial, etc.) District, modified to "DE-3" (Multiple Dwellings) District, modified.

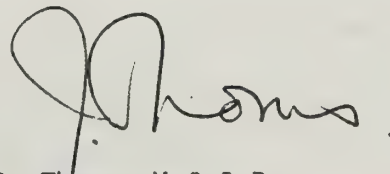
The effect of the By-law is to permit the future redevelopment of the property for a 4-storey apartment building, containing 51 units.

In addition, the By-law also provides for the following variances as special provisions:

- o to permit a maximum building height of four storeys as opposed to a maximum permitted building height of only three storeys (10C(2));
- o to restrict the development to a maximum of 51 dwelling units (10C(5));
- o to permit a gross floor area of 4800 m² instead of the permitted 4060 m² (10C(5));
- o to permit a loading space of 9.0 m by 3.7 m in size instead of the required 18.0 m by 3.7 m loading space (18A);
- o to permit the parking area within 1.5 m of an adjoining residential district;
- o to allow the parking area closer to the street line than 6m (18A(11));
- o to exempt the development from providing a landscaped strip between the boundary of the parking area and residential district (18A)(12)(a);
- o to require a visual barrier not less than 1.2 m and not greater than 2.0 m height along the westerly lot line adjacent to the parking area.



V.J. Abraham, M.C.I.P.
Director of Local Planning



J.D. Thoms, M.C.I.P.
Commissioner
Planning and Development

APPLICANT

Homestarts Inc., prospective owner

LOT SIZE AND AREA

An irregular shaped lot having:

- o 69.79 m (228.98 ft.) of frontage on Forest Avenue;
- o 44.51 m (146.24 ft.) of frontage of Aurora Street;
- o 37.19 m (122.00 ft.) of frontage on Charlton Avenue; and,
- o a lot area of approximately 4,524.23 m² (48,700 sq. ft.).

LAND USE AND ZONING

<u>SUBJECT LANDS</u>	<u>EXISTING LAND USE</u>	<u>EXISTING ZONING</u>
	two, 2-storey brick and concrete block warehouse buildings, a 1 storey brick warehouse office building and vacant lands	"D" (Urban Protected Residential - One and Two-Family Dwellings, etc.) District (Block "1") "J" (Light and Limited Heavy Industrial, etc.) District, modified, (Block "2")
<u>SURROUNDING LANDS</u>		
to the north	C.P. Rail Express Warehouse terminal	"J" (Light and Limited Heavy Residential, etc.) District
to the south	a 5-storey - 20 unit apartment building single-family and dwellings	"E" (Multiple Dwellings, Lodges, Clubs, etc.) District "D" (Urban Protected Residential One and Two-Family Dwellings, Etc.) District
to the east	single-family dwellings	"D" (Urban Protected Residential One and Two-Family Dwellings, etc.) District
to the west	single-family dwellings	"J" (Light and Limited Heavy Industrial, etc.)

OFFICIAL PLAN

Designated "Residential", the proposal complies.

NEIGHBOURHOOD PLAN

Designated for "Medium Density Apartments" in the approved Corktown Neighbourhood Plan, the proposal complies.

BACKGROUND

Previous Applications:

ZA-84-39

At its meeting held on December 11, 1984, City Council approved Zoning Application 84-69, to establish a change in zoning from "J" (Light and Limited Heavy Industrial, etc.) District, and "D" (Urban Protected Residential - One and Two-Family Dwellings, etc.) District to "DE-3" (Multiple Dwellings) District, modified, for the subject property to permit conversion of the existing industrial buildings into a 54-unit multiple-family development. Prior to preparation of the amending By-law, the applicant withdrew the application.

ZA-86-37

At its meeting held on June 11, 1986, the Planning and Development Committee approved a recommendation from staff to rezone the lands from "D" (Urban Protected Residential - One and Two-Family Dwellings) and "J" (Limited and Light Heavy Industry) District modified to "DE-3" (Multiple Dwellings) District. The purpose of the proposed change was to permit the development of the subject lands for a 4-storey, 60-unit condominium. The applicant was required to receive Site Plan approval prior to the amending By-law being considered by City Council. (See attached report.)

During the Site Plan approval process, the department noticed that variances were required. Since the By-law was not finalized, the applicant is required to reapply to the Planning and Development Committee for an amendment to the proposed By-law.

COMMENTS RECEIVED

- o The Building Department, Traffic Department and Hamilton Region Conservation Authority have no comments or objections to the application.
- o The Niagara Escarpment Commission has advised that:

"The building on this site be restructured to 4-storeys in height in order to minimize the visual impact the development will have on the Niagara Escarpment".

o The Local Architectural Conservation Advisory Committee has advised that:

"In respect to architectural conservation No. 200 Forest Avenue was the building identified by LACAC as worthy of preservation - it is a one-storey office building constructed of brick and built with late Victorian architectural features. The previous submission on this location retained the historic building (which we supported), was low-rise and achieved re-use of the industrial buildings."

o The Hamilton-Wentworth Engineering Department has advised in part that:

- 1) Public Watermains are available on the portions of Forest Avenue, as well as Charlton Avenue, abutting the subject property while storm and sanitary sewers are available on Charlton Avenue and on Aurora Drive. A combined storm and sanitary sewer is also available on Forest Avenue.
- 2) The existing road allowance widths of Charlton Avenue, Forest Avenue and Aurora Street are 20.12 m (66 feet). Therefore, we do not anticipate any further road allowance widenings at this time.
- 3) According to Reference Plan 62R-6026, there are a number of building encroachments into the adjacent road allowances. However, it now appears that the existing buildings will be demolished and a new building constructed (Plan A1-Corktown dated November 1986, by Haverty-Rankin). Therefore, because the demolition of the buildings will remove the encroachments, encroachment agreements are not required.
- 4) The applicant should be notified that prior to commencing work within the road allowances, the utilities should be contacted for their comments etc.
- 5) The fence adjacent to the existing home on Aurora Avenue should be recessed approximately 2 m from the property/street line.
- 6) The subject lands will be developed through site plan control. Therefore, detailed plans outlining grading and landscaping will be submitted at such time as the applicant applies under site plan control.
- 7) Any works which may be done within the adjacent road allowances must conform to the respective Streets By-laws.

ECONOMIC FACTORS

The applicant has advised that the development will cost in excess of one million dollars, 100 jobs will be created during the planning and construction period, and manpower will consist of firms in Hamilton-Wentworth.

COMMENTS

1. The proposal complies with the Official Plan.
2. The proposal complies with the approved Corktown Neighbourhood Plan.
3. The proposal has merit and warrants further consideration for the following reasons:
 - o it would result in the removal of a rather unkempt industrial use from an established residential area;
 - o it would provide for rental accommodation within the central area of the City which is currently in short supply;
 - o it would be compatible with residential development in the surrounding area;
 - o it implements the intent of the approved Corktown Neighbourhood Plan which designates the site for "Medium Density Apartments"; and,
 - o the development of the site would provide the opportunity to properly locate a building(s) on the site, thereby providing for increased yards, parking, landscaping, fencing, etc., whereas under the previous proposal the design parameters were limited by the retention and conversion of the former warehouse buildings.
4. Approval of the application would require the following variances:
 - o Building Height Section 10C(3))

The proposed development would be 4-storeys in height, whereas a maximum of 3-storeys (11.0 m (35 ft.)) is permitted in the "DE-3" District. This variance can be supported as it is minor in nature, and the proposed development would be in keeping with the character of the surrounding area. It was approved by the Committee at its June 11, 1986 meeting.
 - o Density Section 10C(5))

The proposed development is for a maximum of 51 dwelling units, whereas under the "DE-3" District regulations a maximum floor area ratio factor of 0.9 times the lot area is permitted, which would allow for a density of approximately 49 units. This variance was approved by the Committee at its June 11, 1986 meeting. In addition, the proposed development will have a maximum gross floor area of 4800 m² (51,668.46 sq. ft.) whereas the by-law would permit a maximum of 4060 m² (43,702.91 sq. ft.).

Since the applicant is able to provide the required number of parking spaces for 4800 m² of gross floor area and has provided landscaping over and above the minimum required, the increase in gross floor may be supported.

o Loading Space (Section 18A)

The proposed development will include a loading space of 3.7 m in size. The By-law requires a large loading space of 18 m by 3.7 m. This variance is minor in nature and therefore may be supported.

o Parking Area (Section 18A).

The proposed parking area is located on the boundary of the residential district to the east and less than 6 m from the street line (Charlton Street East). The By-law requires that any parking adjoining a residential district be more than 1.5 m away from the boundary and not closer to the street line than the minimum front yard depth of the adjacent residential district.

In addition, the by-law requires that a 1.5 m wide landscaping strip be provided along the easterly boundary of the parking area. Due to the configuration of the parking lot, this requirement is not feasible.

The By-law requires a visual barrier be provided along a residential district adjacent to the parking area only: however, in this case, there are single family dwellings to the west, but the land is zoned "J" (Light and Limited Heavy Industry) District. Therefore, no closed fencing is required. In order to buffer the dwellings from any impact emanating from the parking lot, it is appropriate to provide such a barrier.

Compliance to the By-law requirements would result in the loss of 22 parking spaces.

The variances noted above may be supported, since the parking area will be screened from the adjacent residential uses by a visual barrier. The visual barrier would provide adequate buffering for the residential uses.

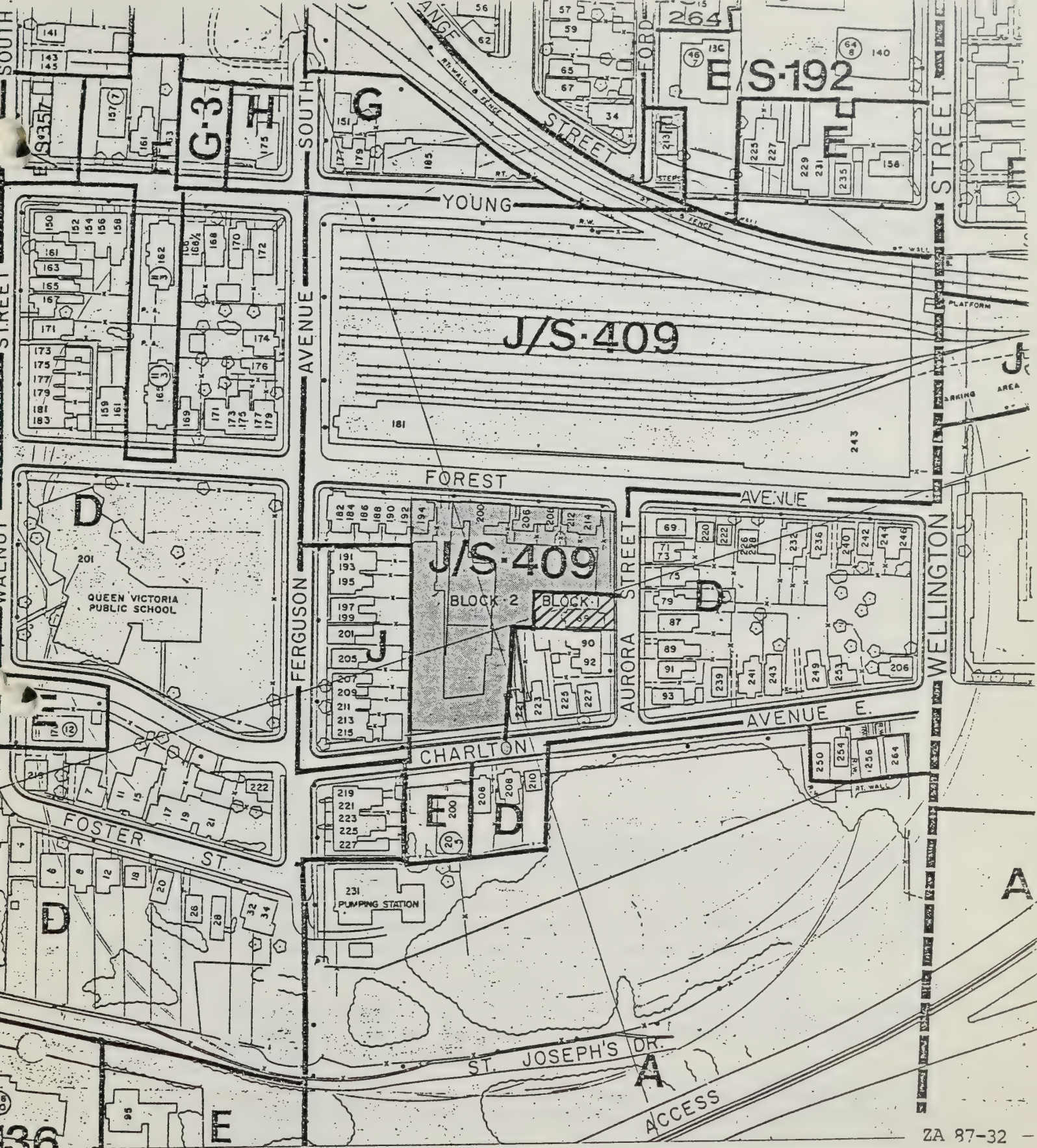
5. The "DE-3" District is subject to the provisions of By-law No. 79-275 respecting Site Plan Control. In this regard, approval of a Site Plan will be required prior to the issuance of a building permit, which will allow for the review of parking, landscaping, drainage, etc.

CONCLUSION

Based on the foregoing, the further amended application can be supported.

JH:lm

W.P. DOC. 0465P



LEGEND

BLOCK-1



Change in Zoning from "D" (Urban Protected Residential - One and Two Family Dwellings, etc.) District to "DE-3" (Multiple Dwellings) District, Modified.

BLOCK-2



Change in Zoning from "J" (Light and Limited Heavy Industry, etc.) District to "DE-3" (Multiple Dwellings) District, Modified.

APPENDIX A

F O R A C T I O N

FROM Planning and Development Department

DATE June 4, 1986

TO Planning and Development Committee

Refer To File No. ZA-86-37
CORKTOWN
NEIGHBOURHOOD

Attention of V. J. Abraham

SUBJECT

Amended application for a change in zoning for properties at Nos. 194 to 214 Forest Avenue and No. 88 Aurora Street, as shown on the attached map on the following basis:

- Block "1" - Change in zoning from "D" (Urban Protected Residential - One and Two-Family Dwellings, etc.) District to "DE-3" (Multiple Dwellings) District.
- Block "2" - Change in zoning from "J" (Light and Limited Heavy Industrial, etc.) District, modified, to "DE-3" (Multiple Dwellings) District.

The purpose of the proposed change in zoning is to demolish the existing buildings and permit development of the subject lands for a 4 storey apartment building having a maximum of 60 units.

RECOMMENDATION

That approval be given to an Amended Zoning Application 86-37, Homestarts Inc., prospective owner, for a change in zoning from "D" (Urban Protected Residential - One and Two-Family Dwellings, etc.) District and "J" (Light and Limited Heavy Industrial, etc.) District modified, to "DE-3" (Multiple Dwellings) District, for properties located at Nos. 194 to 214 Forest Avenue and No. 88 Aurora Street, as shown on the attached plan marked as APPENDIX "A", on the following basis:

- i) That the lands shown as Block "1" be rezoned from "D" (Urban Protected Residential - One and Two-Family Dwellings, etc.) District to "DE-3" (Multiple Dwellings) District;
- ii) That the lands shown as Block "2" be rezoned from "J" (Light and Limited Heavy Industrial, etc.) District to "DE-3" (Multiple Dwellings) District;

- iii) That the "DE-3" (Multiple Dwelling) District regulations as contained in Section 10C of Zoning By-law No. 6593, applicable to the lands shown as Blocks "1" and "2", be modified to include the following variances as special requirements:
- a) that notwithstanding Section 10C(2) a maximum building height of 4 storeys shall be permitted; and,
 - b) that notwithstanding Section 10C(5) a maximum of 60 dwelling units shall be permitted.
- iv) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S- , and that the subject lands on Zoning District Map E-5 be notated S- ;
- v) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-5; and,
- vi) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

EXPLANATORY NOTE

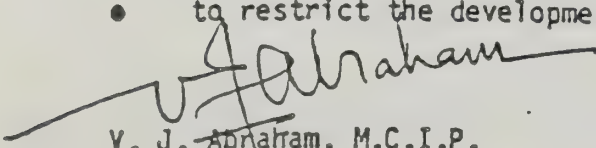
The purpose of the By-law is to provide for changes in zoning for properties located at Nos. 194 to 214 Forest Avenue and No. 88 Aurora Street, as shown on the attached plan marked as APPENDIX "A", on the following basis:

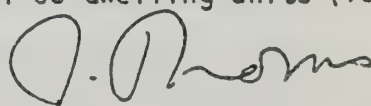
- Block "1" - Change from "D" (Urban Protected Residential One and Two-Family Dwellings, etc.) District to "DE-3" (Multiple Dwellings) District.
- Block "2" - Change from "J" (Light and Limited Heavy Industrial, etc.) District, modified to "DE-3" (Multiple Dwellings) District.

The effect of the By-law is to permit the future redevelopment of the property for an apartment building.

In addition, the By-law also provides for the following variances as special provisions:

- to permit a maximum building height of 4 storeys as opposed to a maximum building height of only 3 storeys (10C(2)); and,
- to restrict the development to a maximum of 60 dwelling units (10C(5)).


V. J. Abraham, M.C.I.P.
Director of Local Planning


J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development

APPLICANT

Homestarts Inc., prospective owner.

LOT SIZE AND AREA

- an irregular shaped site having:
- 69.79 m (228.98 ft.) of frontage on Forest Avenue;
- 44.51 m (146.24 ft.) of frontage on Aurora Street;
- 37.19 m (122.00 ft.) of frontage on Charlton Avenue; and,
- a lot area of approximately 4,524.23 m² (48,700 sq. ft.).

LAND USE AND ZONING

SUBJECT LANDS

EXISTING LAND USE

EXISTING ZONING

two, 2 storey brick and concrete block warehouse buildings, a 1 storey brick warehouse office building and vacant lands

"D" (Urban Protected Residential - One and Two-Family Dwellings, etc.) District (Block "1"), and "J" (Light and Limited Heavy Industrial, etc.) District, modified, (Block "2")

SURROUNDING LANDS

to the north

C.P. Rail Express Warehouse terminal

"J" (Light and Limited Heavy Residential, etc.) District

to the south

a 5 storey 20 unit apartment building single-family and dwellings

"E" (Multiple Dwellings, Lodges, Clubs, etc.) District, and "D" (Urban Protected Residential One and Two-Family Dwellings, etc.) District

to the east

single-family dwellings

"D" (Urban Protected Residential One and Two-Family Dwellings, etc.) District

to the west

single-family dwellings

"J" (Light and Limited Heavy Industrial, etc.) District, and "J" (Light and Limited Heavy Industrial, etc.) District, modified

OFFICIAL PLAN

Designated "Residential", the proposal complies.

NEIGHBOURHOOD PLAN

Designated for "Medium Density Apartments" on the approved Corktown Neighbourhood Plan, the proposal complies.

COMMENTS RECEIVED

- The Building Department, Traffic Department and Hamilton Region Conservation Authority have no comments or objections to the application.
- The Niagara Escarpment Commission has no objection.
- The Department of Culture and Recreation has no comment.
- The Local Architectural Conservation Advisory Committee has advised that:

"In respect to architectural conservation No. 200 Forest Avenue was the building identified by LACAC as worthy of preservation - it is a one-storey office building constructed of brick and built with late Victorian architectural features. The previous submission on this location retained the historic building (which we supported), was low-rise and achieved re-use of the industrial buildings. LACAC staff is interested in photographing buildings before any demolition takes place and would be willing to meet with developer re: No. 200 Forest Avenue preservation."

- The Hamilton-Wentworth Engineering Department has no objection. (See attached letter for full comments.)

BACKGROUND

- Previous Application

At its meeting held on December 11, 1984 City Council approved Zoning Application 84-69, to establish a change in zoning from "J" (Light and Limited Heavy Industrial, etc.) District, and "D" (Urban Protected Residential - One and Two-Family Dwellings, etc.) District to "DE-3" (Multiple Dwellings) District, modified, for the subject property to permit conversion of the existing industrial buildings into a 54 unit multiple-family development. Prior to preparation of the amending By-law, the applicant withdrew the application.

ECONOMIC FACTORS

The applicant has advised that the development will cost in excess of one million dollars, 100 jobs will be created during the planning and construction period, and manpower will consist of firms in Hamilton-Wentworth.

COMMENTS

1. The proposal complies with the Official Plan.
2. The proposal complies with the approved Corktown Neighbourhood Plan.
3. The proposal has merit and warrants further consideration for the following reasons:
 - it would result in the removal of a rather unkempt industrial use from an established residential area;
 - it would provide for rental accommodation within the central area of the City which is currently in short supply;
 - it would be compatible with residential development in the surrounding area;
 - it implements the intent of the approved Corktown Neighbourhood Plan which designates the site for "Medium Density Apartments"; and,
 - the redevelopment of the site would provide the opportunity to properly locate a building(s) on the site, thereby providing for increased yards, parking, landscaping, fencing, etc., whereas under the previous proposal the design parameters were limited by the retention and conversion of the former warehouse buildings.
4. Approval of the application would require the following variances:
 - Building Height

The proposed development would be 4 storeys in height, whereas a maximum of 3 storeys (11.0 m (35 ft.)) is permitted in the "DE-3" District. This variance can be supported as it is minor in nature, and the proposed development would be in keeping with the character of the surrounding area.

o Density

The proposed development is for a maximum of 60 dwelling units, whereas under the "DE-3" District regulations a maximum floor area ratio factor of 0.9 times the lot area is permitted, which would allow for a density of approximately 49 units. This variance can be supported due to the increased building height, and it is minor in nature.

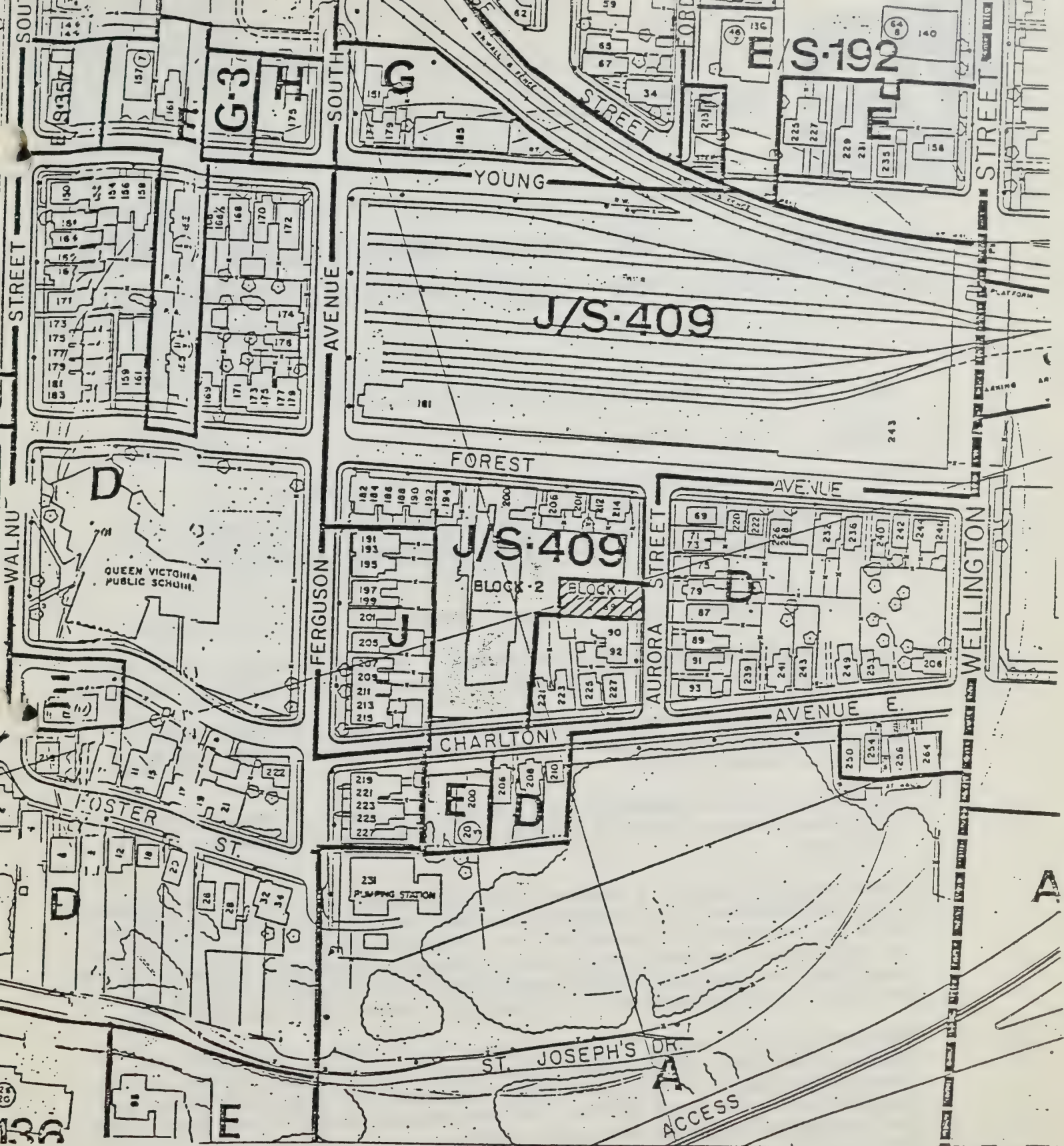
5. The "DE-3" District is subject to the provisions of By-law No. 79-275 respecting Site Plan Control. In this regard, approval of a Site Plan will be required prior to the issuance of a building permit, which will allow for the review of parking, landscaping, drainage, etc.
6. The Local Architectural Conservation Advisory Committee has advised that the building located at No. 200 Forest Avenue is identified as worthy of preservation. In this regard, it is suggested that the applicant meet with LACAC representatives to determine the future of this historical building.

CONCLUSION

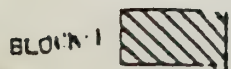
On the basis of the foregoing, the amended application can be supported.

GAW/pb.

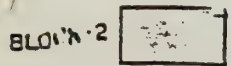
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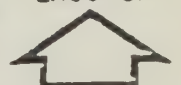
LEGEND



Change in Zoning from "D" (Urban Protected Residential - One and Two Family Dwellings, etc.) District to "DE-3" (Multiple Dwellings) District.



Change in Zoning from "J" (Light and Limited Heavy Industry, etc.) District to "DE-3" (Multiple Dwellings) District.



2A86-37

13.

F O R I N F O R M A T I O N

FROM Planning and Development Department DATE April 23, 1987
TO Planning and Development Committee Refer to File No. DA-87-08

BACKGROUND

The attached Site Plan Control Application has been approved by the Chairman of the Planning and Development Committee and the Alderman of the Ward.

JPS/jd

W.P.DOC.0390(24)

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- d) provision of a note on the plan indicating the following:

"In regard to a shortfall of required parking for an additional 600 square metres (6500 sq. ft.) of commercial floor area as part of stage two of the development, the applicant should make application in accordance with the cash in lieu policy - to permit the additional development;

- e) provision of an undertaking from the owner that a landscape plan for the site will be submitted for approval within three months from the date of approval of the application;

- f) provision of an undertaking from the owner that the following road widenings will be dedicated to the Region of Hamilton-Wentworth at the expense of the owner prior to May 31st, 1987:

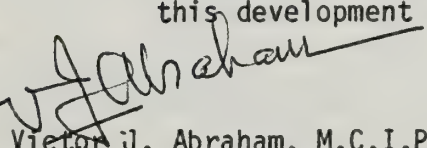
i) on King Street West, at the west end of the site, a 1.5m x 6m triangular parcel to contain the existing sidewalk with the road allowance;

ii) on Main Street West, a 1.5m road widening to provide for pavement and sidewalk widenings; and

iii) on Dundurn Street South, a 2.1m widening to provide for proper width traffic lanes and sidewalk on the west side of the road, made more critical by this development; and,

- g) provision of a note on the plan indicating the following:

"Owner shall enter into the necessary access approval from Regional Council to provide for accesses and median alterations required by this development and shall be at the expense of the developer."

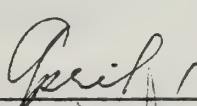

Victor J. Abraham, M.C.I.P.
Director of Local Planning

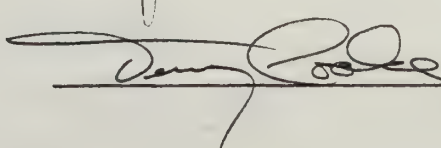
Approved On:

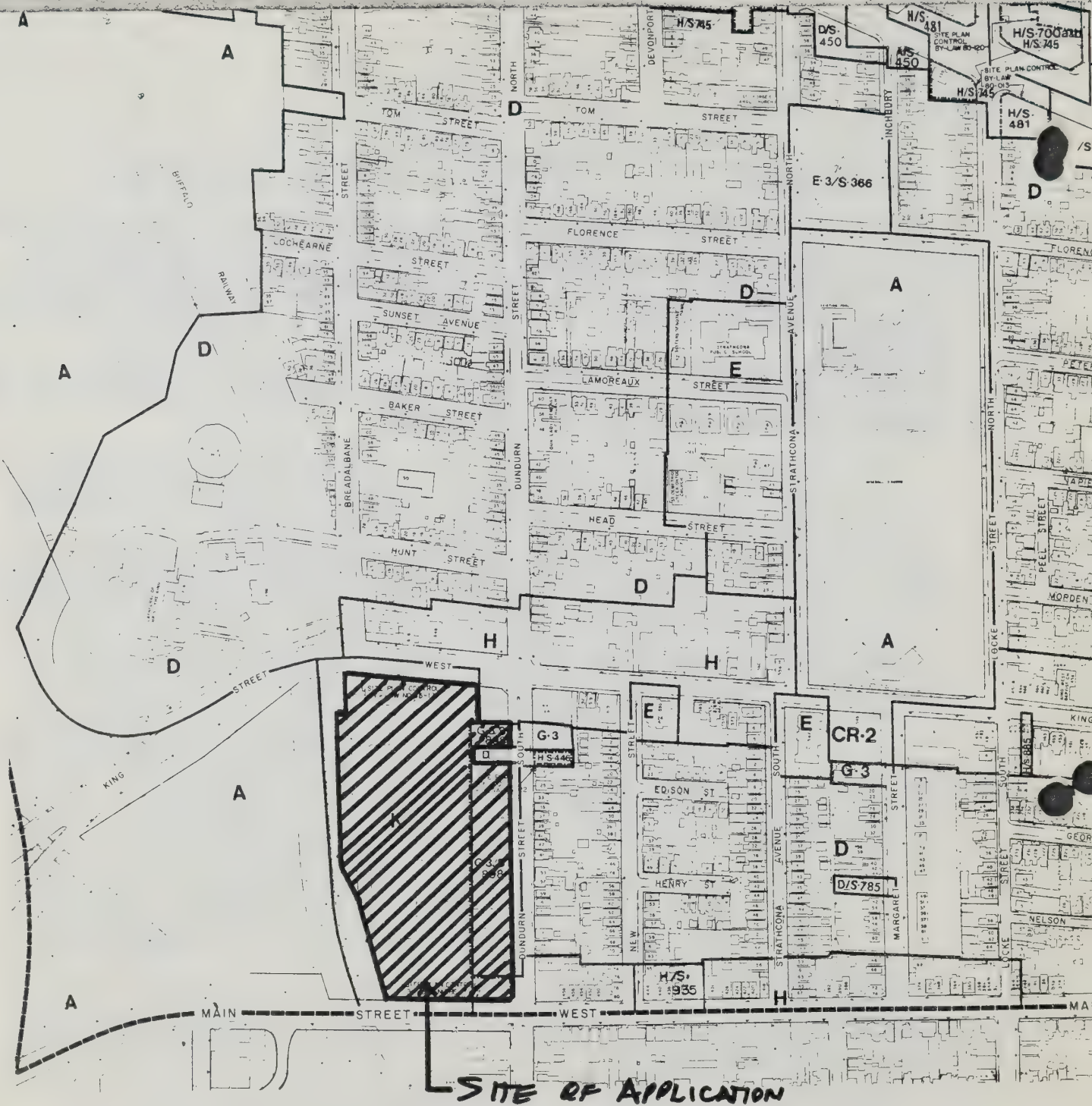
Alderman John Smith
Chairman

Alderman Terry Cooke
Ward Alderman

VJA/JPS/mm
W.P.DOC. 0390P







<p>39 40 107</p> <p>135 127 21</p> <p>136 92 41</p> <p>This is not a Legal Document For Zoning Verification Please Contact City Building Department.</p>	<p>DA 87-08. CITY OF HAMILTON</p> <p>STRATHCONA</p> <p>ZONING</p>	
<p>----- Neighbourhood Boundary</p> <p>----- Zoning Boundary.</p>	<p>0 100 m</p> <p>SCALE 80 m</p> <p>NORTH</p>	
<p>Prepared for The City of Hamilton by the Planning and Development Department of The Regional Municipality of Hamilton Wentworth</p>	<p>PLANNING UNIT NO 6804</p>	<p>June 1985</p> <p>PAGE NO 127</p>

FOR ACTION

FROM	<u>Planning and Development Department</u>	DATE	<u>April 22, 1987</u>
TO	<u>Planning and Development Committee</u>	Refer to File No.	DA-87-10 HANNON WEST <u>NEIGHBOURHOOD</u>
		Attention Of	V. J. Abraham

BACKGROUND

At its meeting of April 1, 1987, the Planning and Development Committee tabled the subject application for a 30 day period to allow time for a meeting to be held by the Ministry of the Environment. The Ministry of the Environment has subsequently advised that a Certificate of Approval under Section 8 of the Environmental Protection Act has been issued on April 2, 1987 and that it is too late to hold a public meeting.

PROPOSAL

Plans have been submitted for development of a facility for the production of hot mix asphalt on lands located on the west side of Upper Ottawa Street, south of Rymal Road West.

Parking for five vehicles is provided on the site.

Much of the site provides stock pile storage of raw materials.

New landscaping in the form of Norway spruce trees will be provided along Upper Ottawa Street.

RECOMMENDATION

That approval be given to Site Plan Control Application DA-87-10 by Cayuga Materials and Construction Co. Limited, owners, of the lands on the west side of Upper Ottawa Street, south of Rymal Road East, subject to the following:

- (a) modification to the plans related to dimensions, notes, grading and driveway as marked in red on the plans; and,
- (b) provision of a revised landscape plan to provide for tree plantings along all the property lines.

Victor J. Abraham, M.C.I.P.
Director of Local Planning

Applicant

Cayuga Materials and Construction Co. Limited, owner, as per Offer to Purchase from the City of Hamilton.

Zoning

"M-15" (Prestige Industrial) District.

Location and Description

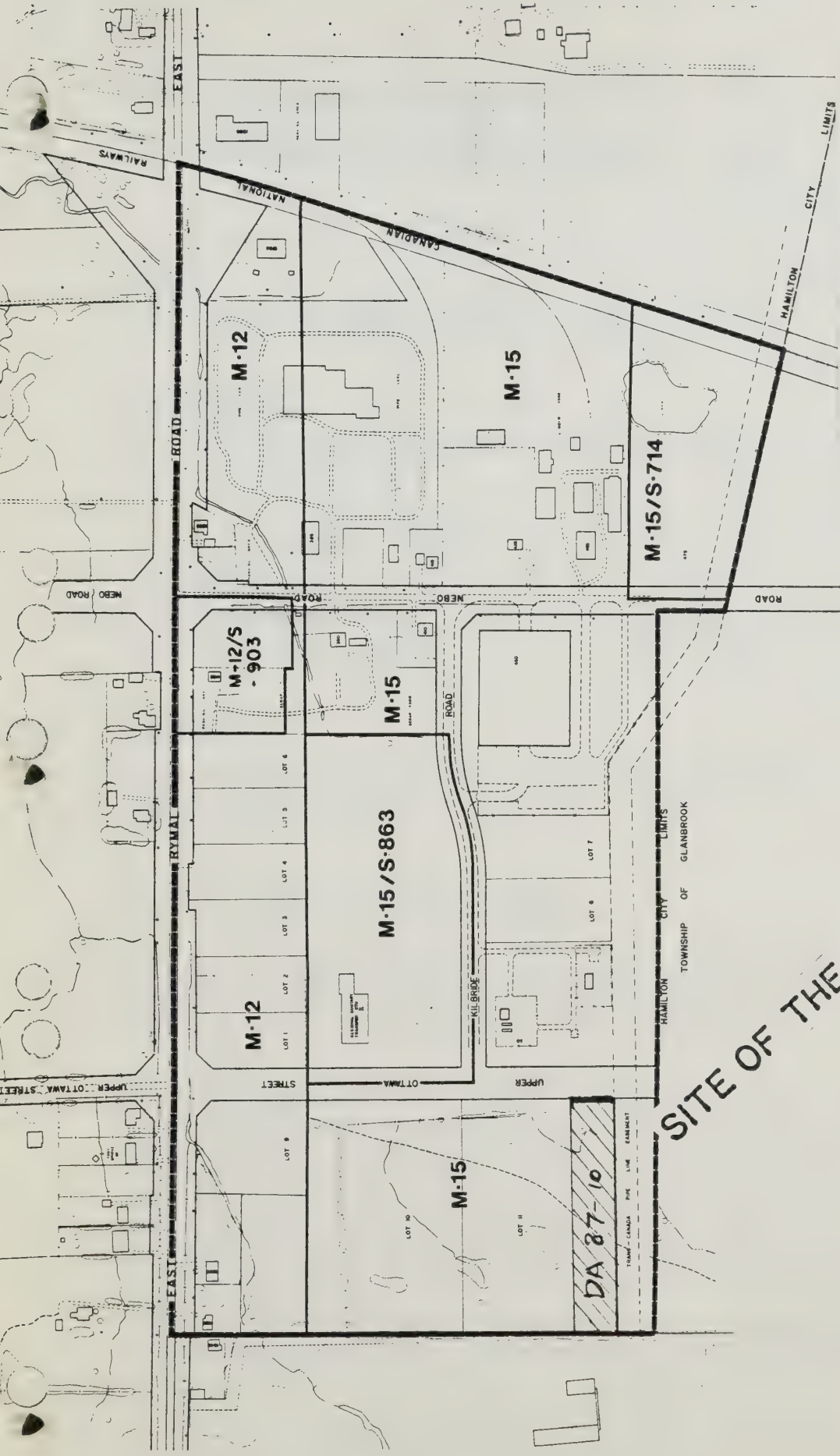
The subject vacant land is located on the west side of Upper Ottawa Street, south of Rymal Road and has a street frontage of 53.863 m (176.7 ft.), a lot depth of 187.731 m (615.9 ft.) and a lot area of 1,012 m² (10,893.4 sq.ft.).

Results of Circularization

1. The Traffic Department has advised that the access should be modified as marked in red on the plan to provide adequate turning radii for trucks.
2. The Fire Department has advised the following:
 - (a) Access for firefighting appears satisfactory.
 - (b) The installation of a private fire hydrant within 90 m of the baghouse is considered necessary and should be provided.
 - (c) Waterflow rate shall be at least 500 igpm or the maximum available from the municipal supply if less than 500 igpm.
3. The Hamilton-Wentworth Engineering Department has advised the following:
 - (a) The revised grading plan is satisfactory subject to minor revisions as shown in red on the plans.
 - (b) All berming, signs, etc. are to be on private property only.
 - (c) All other work within the Upper Ottawa Street road allowance must conform to the City of Hamilton Streets By-Law.
4. The Building Department has not responded to date.

COMMENTS

1. Modifications are required to the plans related to dimensions, notes, grading, driveway dimension, and fire hydrant as marked in red on the plans.
2. Although the abutting properties to the north and west are zoned for industrial uses and the land to the south is for the Trans-Canada Pipe Line, some landscape buffer treatment should be provided along all property lines to visually screen the stockpile storage areas located on the property. A revised landscape plan should be submitted to provide evergreen planting areas along all property lines.



SITE OF THE APPLICATION

<p>CITY OF HAMILTON DA 87-10 HANNON WEST ZONING</p>	<p>129 120 62 14 64 63</p> <p>This is not a Legal Document For Zoning Verification Please Contact City Building Department.</p>	<p>SCALE 0 50 m 100 m NORTH</p>	<p>PLANNING UNIT NO 7402</p>	<p>PAGE NO 64</p>
<p>Neighbourhood Boundary Zoning Boundary</p>	<p>Prepared for The City of Hamilton by the Planning and Development Department of The Regional Municipality of Hamilton Wentworth</p>			

FOR INFORMATION

FROM Planning and Development Department

DATE April 9, 1987

TO Planning and Development Committee

Refer To File No. 98

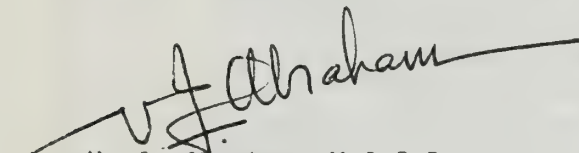
Attention Of V. J. Abraham

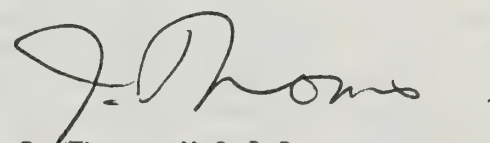
SUBJECT

Status Report on Demand Responsive Planning Projects

RECOMMENDATION

That the Planning and Development Committee receive the attached Status Report as information.


V. J. Abraham, M.C.I.P.
Director of Local Planning


J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development Department

BACKGROUND

As requested by the Planning and Development Committee, this status report has been prepared to assist the Committee in monitoring progress on the major projects.

STATUS OF DEMAND RESPONSIVE PROJECTS

Table 1* provides a detailed summary of all major demand responsive projects that the Planning and Development Department has committed to undertake to date. The summary includes a description of the status of each project and the anticipated timing (completion date).

Historically, the Department averages 622 days of demand responsive projects annually. These projects arise as a result of unexpected issues which require immediate attention as directed by standing committees of Council, Council or other departments. Ranging in magnitude from day-long assignments to major year-long studies, the Department allocates staff resources in the Work Programme to meet these unanticipated needs. Currently, there are 27 such studies which are being dealt with by the Department as 'A' priority assignments, together with the approved projects (see Table 2)* contained in the 1987 Work Programme.

* Four studies which began in previous years as demand responsive are now approved projects in the Work Programme, and are included in Table 1.

It is intended that all of these studies will be initiated during the course of the year with the existing staff complement, except for the High Density Residential Development Study which is dependent on additional staffing to be supported by provincial grant funding. Tentatively, some twelve projects are scheduled for completion by mid-year; nine by year-end; and the remainder are scheduled for completion in 1988. It should be noted that the list of project contained in Table 1 is dynamic and continually growing as new projects are assigned.

MONITORING

To ensure its project commitments to the City, the Department as a matter of course, undertakes a mid-year (July) status review of all approved and demand responsive projects. This review enables the Department to recommend to the Planning and Development Committee any changes to project priorities, if necessary so that staff resources can be reallocated to meet pressing issues. Traditionally, this practice has ensured that the City's expectations for planning services are satisfied by the Department.

A.L.G.:nd

W.P. DOC. 0459P

TABLE 1 - STATUS SUMMARY: DEMAND RESPONSIVE PLANNING PROJECTS

<u>PROJECT</u>	<u>STATUS</u>	<u>TIMING</u>
● City Entrances - Main Street West study	- 1st phase completed and presented to P&D	December
	- 2nd phase awaiting approval of summer students	
	- continuation of urban design component of Neighbourhood Planning along corridor (Ryckmans, Mewburn and Kennedy East completed)	1988
	- Allison, Jerome and Kerningham to be initiated	
	- draft report circulated to reviewers	September
● International Villages Study	- draft report circulated to reviewers and being revised accordingly	June
● Durand Neighbourhood Plan	- draft plan circulated to reviewers	Public meeting June
● Day Nurseries Study	- draft report circulated to reviewers and being revised accordingly	Public meeting June Completion September
● Burlington Street Renaming	- circulated to affected properties (proposed name change)	June
● Review of Zoning - Uses in M-15 District Districts	- being initiated	June
	- M-11, M-12 Districts to be initiated in the fall	1988
	- Deletion of Townhouse in D District	April
	- near completion	
	- annual review to be initiated in November	December
	- Cash-in-lieu of parking	

<u>PROJECT</u>	<u>STATUS</u>	<u>TIMING</u>
● Development Incentives Study	- 2nd draft circulated to reviewers	May
● Stoney Creek Annexation Proposal (Gershorne)	- liaised with CAO and Stoney Creek as required	Ongoing
● Industrial Parks Assessment	- 2nd draft circulated to reviewers and being revised	July
	- to be submitted to Executive Committee	
● Supermail Box Location Study	- analysis completed and draft report circulated to reviewers	May
	- to be submitted to Legislation Committee	
● Freeway Standards Implementation	- liaised with Solicitor and Building Depts. and Ministry of Environment regarding residential development standard for noise attenuation	Fall
	- implementation method to be formulated	
● Upper James/Rymal Commercial Market Review	- completed review of market study and discuss related issues with applicant	July
● Housing needs demand	- scheduled to begin in September	Spring 1988
● Gershorne (Greenhill) Review	- report being finalized	July
● Allison (Upper James) Review	- commercial land use potential being assessed	July
● Limeridge - Freeway Uses	- scheduled to begin in May	July
● Neighbourhood Philosophy	- scheduled to begin in July	September
● Walkways	- scheduled to begin in September	November
● Go Transit Commuter Rail Study	- providing technical information to GO Transit Consultants and monitoring study progress	Ongoing

<u>PROJECT</u>	<u>STATUS</u>	<u>TIMING</u>
• Adult Entertainment Parlours Review	- draft report being finalized for circulation to reviewer	June
• Garbage Enclosures	- scheduled to begin in July	November
• Review of Regulations Controlling Flea Markets	- scheduled to begin September	1988
• Review of Site Plan Application throughout the city	- study initiated as requested by Business Land Use Advisory Board and endorsed by P&D Committee	August
• High Density Residential Development Study	- granting funding from Province approved - terms of reference completed - awaiting P&D Committee approval	April 1988

TABLE 2 - Excerpt From the 1987 Work Programme

TABLE 2

SUMMARY SHEET HAMILTON: LOCAL PLANNING BRANCH

Page	Project No.	Project Name	Person		Days T & C.	Other Costs \$	Timing		Priority
			Staff				Start	Finish	
17.	6 6-7 5-2	Official Plan & Neighbourhood Plans Administration and Representation	240		80	--	ONGOING		A
18.	1, 9, 13	Zoning Applications and Representation	640		225	--	ONGOING		A
19.	2	Site Plan Applications	325		90	--	ONGOING		A
20.	99, 6-4	Public Information Services	370		--	--	ONGOING		A
21.	5-4-4	Special Purpose Committees	177		30	1000	ONGOING		A
22.	4,5,6,7,8	Land Development Review and Comments	183		5	--	ONGOING		A
23.	5-4-7-9 5-2-101, 82, 45	Central Area Plan South Mountain Neighbourhood Planning (Mewburn, Jerome, Falkirk W)-Part 1	130		62	1500	1986 DEC		A
24.			165		60	2000	1986 DEC		A
25.	3	City Entrances	45		5	--	ONGOING		A
26.	5-4-41	Durand Neighbourhood Plan	60		25	1700	1985 DEC		A
27.	10	High Density Apartment Policies	65		55	1000			A
28.	5-8-4-2	Heritage Planning and Implementation	40		15	--	ONGOING		A
29.	5-6-4-8	Parks Expenditures	30		10	--	ONGOING		A
30.	5-7-1	Niagara Escarpment Plan Amendment	11		5	--	SEPT DEC		A
31.	5-4	Day Nurseries	10		3	500	ONGOING		A
32.	5-4-3-2-3	Industrial Revitalization - Part 1	20		10	250	ONGOING		A
33.	5-4, 10	Demand Responsive Projects	622		215	--	ONGOING		A
34.	95-98, 12	Resource Management	410		--	--	ONGOING		A
35.	11	Union Business	12		--	--	ONGOING		A
		SUB-TOTAL	3555		895	7950			
		EQUIVALENT TO 16 PLANNERS							

FOR ACTION

FROM Planning and Development Department

DATE March 23, 1987

TO Planning and Development Committee

Refer To File No. P5-4-7-15

Attention Of V. J. Abraham

SUBJECT

High Density Residential Development Study - Terms of Reference.

RECOMMENDATIONS

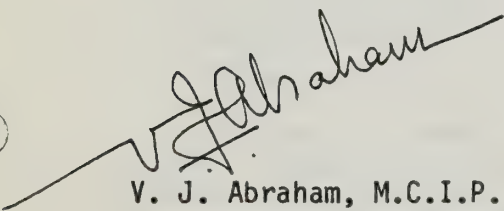
That the Planning and Development Committee approve the Terms of Reference for the High Density Development Study, attached as APPENDIX "A".

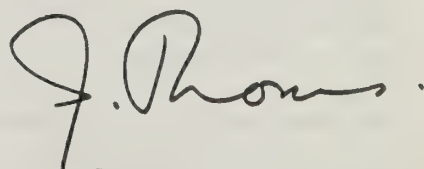
EXPLANATORY NOTE

A study on High Density Residential Development in the Central Area has been included in the 1987 Work Program. This study was originally recommended as a result of joint meetings of LACAC, CAPIC, the Durand Neighbourhood Association and the Durand Neighbourhood Plan Advisory Committee. The Hamilton Real Estate Board and the Chamber of Commerce have also indicated their support for the Study.

In December 1986, the City received a \$35,000 Community Planning Grant from the Ministry of Municipal Affairs, for 50% of the Study costs. The deadline for work as set by the Ministry is April 29, 1988.

A Terms of Reference for the Study has been prepared and is attached as APPENDIX "A".


V. J. Abraham, M.C.I.P.
Director of Local Planning


J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development

BACKGROUND

On August 12, 1986, the Planning and Development Committee approved, in principle, a High Density Residential Development Study in the Central Area as part of the Planning Department 1987 Work Program. Further, on August 26, 1986, Council authorized the Director of Local Planning to investigate the possibility of securing a grant from the Ministry of Municipal Affairs to assist in carrying out the study.

On December 19, 1986, the Minister of Municipal Affairs announced that the City has been awarded a Community Planning Grant to assist in undertaking the Study. The Grant provides funds in the amount of \$35,000 or 50% of the actual costs of the study, whichever is the lesser. A payment of \$29,750 has already been received. The Ministry has established the deadline for work on April 29, 1988.

STUDY CONTENT

It is proposed that the Study will examine the impact of the planning and development of high density residential buildings on the character of existing areas in the Central Area. The Central Area is the most logical study area since it has greatest concentration of lands zoned for high density residential use and the largest supply of existing apartments in the City.

The effect of high density buildings on existing areas has been a concern of LACAC, CAPIC, the Durand Neighbourhood Plan Advisory Committee and the Durand Neighbourhood Association. These Committees, through joint meetings, originally identified the need for such a study and recommended that the Study be undertaken. In addition, the Hamilton Real Estate Board and the Chamber of Commerce have indicated their support for the Study through discussions with CAPIC.

The Study will be in two distinct phases. Phase I will examine the current inventory of lands zoned and/or designated for high density residential development in the Central Area and its impact on the surrounding area. Phase II will review the effect of existing regulations and develop a strategy for the planning and development of high density residential buildings. (See Appendix "A" for the detailed terms of reference.)

Upon the completion of Phase I, a report will be provided. In addition to an examination of the current situation, the report will outline options for actions to be developed during Phase II. At this point, the Planning and Development Committee should approve those actions which will be studied in Phase II.

BJ:cs
Attach.

0383P

SUMMARY

HIGH DENSITY RESIDENTIAL STUDY

BACKGROUND

- o The study looks at 'E' (High density residential) zoned areas in the Central Area (Escarpment to the Bay and Queen to Victoria).
- o The study is included in the Department's work program. A provincial grant of \$35,000 has been awarded. The money would be used principally to hire staff to carry out the study.
- o The study is supported by CAPIC, LACAC, Durand Advisory Committee, Durand Association, Chamber of Commerce and Real Estate Board.

PROGRAM

Phase I

- o Summer 1987 - report to Planning Committee on Background and Analysis. The report will recommend options for action to be evaluated during Phase II, including possible termination of the study at this point.

Phase II

- o Fall 1987 - report to Planning Committee on proposals adopted by the Committee and authorization for public meeting.
- o Spring 1988 - report to Planning Committee on review of submissions from public meeting.

PURPOSE

- o To fulfill the economic potential of the downtown by maximizing the number of people living in close proximity.
- o To implement the Regional Economic Strategy by providing a high quality of life in inner city neighbourhoods and improving the image of the city.
- o To bring the zoning into line with Central Area Plan policies.

ISSUES

- o Attracting high density housing and finding enough sites.
- o Encouraging good urban design particularly how development will fit into the neighbourhood.
- o Traffic access to arterial roads.

HIGH DENSITY RESIDENTIAL DEVELOPMENT STUDY

TERMS OF REFERENCE

INTRODUCTION

The purpose of this Study Design is to:

- o define the objectives of the Study;
- o outline the study methodology; and,
- o detail cost timing and staff requirements associated with the Study.

BACKGROUND

On August 13, 1986, the Planning and Development Committee approved a study of High Density Residential Development in the Central Area as part of the 1987 Work Program, subject of final approval during the budget review process. Further, on August 26, 1986, Hamilton City Council authorized the Director of Local Planning to investigate the possibility of securing a grant from the Ministry of Municipal Affairs in order to undertake this study.

The need for compatible residential development and the preservation of older areas in the Central Area originated in the Central Area Plan, as approved by Council on January 13, 1981. Policies in the Plan encourage redevelopment which is compatible with existing areas, including low-rise, high-density development, sensitive urban design and a preservation of buildings and areas of historical and architectural significance.

OBJECTIVES

It is proposed that this study examine the impact of High Density Residential zoning on the Central Area. The study will identify the need and demands for the existing zoning for high density residential development in its present location throughout the Central Area. In addition, it is proposed that the study will develop a strategy regarding this form of housing.

This study should address the following issues associated with lands zoned for high-density residential development:

- o the need for high density residential buildings and the ability of the current supply of appropriately zoned lands to meet these demands;
- o the appropriate location for higher density development;
- o the source of regulations for apartment building in achieving buildings of human scale, developing consistent streetscapes, providing access to sunlight and reducing wind tunnel effects;

- o the effect of new high density residential buildings on the preservation of heritage buildings and heritage areas; and,
- o impacts of high density rezoning on the existing community, existing infrastructure, traffic implications, open space requirements, public transit, etc.

STUDY AREA

The study will examine High Density Residential development in the Central Area, that portion of the City of Hamilton bounded by the Bay, the Escarpment, Queen Street and Victoria Avenue.

This area has the largest concentration of lands zoned for high density residential purposes and existing apartments in the City. For this reason, the Central Area is the most logical study area.

However, policies developed by the study may be applied to high density residential development throughout the City.

STUDY APPROACH

It is proposed that the study will be undertaken in two phases:

- o Phase I will examine the current supply of lands zoned for high density residential development, the impact of existing developments on the surrounding area and examine the effect of current regulations on the quality and quantity of high density residential development. At the completion of this Phase, an interim report will be submitted to the Planning and Development Committee. The report will outline options for action that could be taken in order to implement a strategy for the development of high density residential buildings; and,
- o Phase II will evaluate and establish strategies for the planning and development of high density residential buildings based on the options recommended and adopted.

PHASE I - EXISTING SITUATION

Phase I will consist of the following steps:

1. Identify existing areas planned for high density residential development:
 - areas designated for high density residential development in the neighbourhood plans;

- areas zoned for high density residential development ("E", "E-1", "E-2" and "E-3" Districts);
 - existing apartment buildings.
2. Need for High Density Residential Buildings:
- trends in apartment construction;
 - apartment vacancy rates;
 - trends in condominium construction;
 - costs associated with home ownership;
 - the impact of changing household structure on the demands for high density residential development. This step will include an examination of the following:
 - o age distribution household formation characteristics;
 - o average household sizes;
 - o number of children;
 - o type of households (family/non-family household);
 - o changes in age and sex of household head.
 - the movement of population into and out of the Central Area.
 - discussions with representatives of the building industry, tenant groups and other interested agencies.
3. Distribution of High Density residential zoning:
- identify concentrations of high density residential development;
 - existing and potential densities on a small area basis;
 - review location of existing high density residential buildings and evaluate their impact on the surrounding area (traffic, streetscape, shadowing, wind tunnel effects).
4. Effect of High Density Residential Development of the Central Area:
- identify the historically listed and designated buildings within areas zoned for high density residential development;
 - identify potential and existing problems to streetscape such as:
 - o blocking view of escarpment and the bay;

- o poor mix of units (e.g. singles alongside high rises);
 - o parking problems;
 - o traffic problems;
 - o blocking sunlight; and,
 - o wind tunnel effects.
 - inventory of all units within areas zoned for high density residential zones (e.g. single semis, plexes, low-rise apartments, or high-rise apartments).
5. Review policies of the Official Plan and Central Area Plan regarding residential development in the Central Area, the mix of residential unit types and appropriate densities. The study will also examine high and medium density apartment designations and policies in the Neighbourhood Plans.
 6. Review zoning requirements for High Density residential developments (i.e., "E", "E-1", "E-2" and "E-3" Districts) in terms of:
 - yards;
 - maximum heights
 - maximum floor area;
 - landscaping; and,
 - density bonuses.
 7. Review the potential for site plan control to minimize impact of developments on the existing streetscapes.
 8. Review regulations which protect existing buildings such as:
 - Heritage Act (i.e., postpone demolition of designated buildings);
 - Rental Housing Protection Act (i.e., prevent demolition of existing rental housing).
 9. Review any other legislation which will promote or impede high density residential development such as:
 - Rental Protection Act;
 - Rent Control legislation;
 - Assured Housing Programs;
 - Renovation programs (OHRP and RRAP); and,
 - Rental Registry.
 10. Review the regulations of other municipalities regarding high density residential development.

11. Outline options for future actions to be examined in Phase II.

Upon the completion of Phase I, an interim report on the current situation will be submitted to the Planning and Development Committee. The report will examine the supply of high density residential development and evaluate its impact on the surrounding environment. In addition, the report will outline options available for the implementation of a strategy for the planning and development of high density residential development in the Central Area. The exact nature of Phase II will be dependent on those options adopted by the Planning and Development Committee.

PHASE II - STRATEGIES

Phase II will consist of the following steps:

1. An evaluation of the impact of high density residential areas in the Central Area. The evaluation should determine the following:
 - whether the current supply of land designated for residential development can meet future demands in the Central Area;
 - where is the most appropriate location for high density residential developments;
 - what are the preferred densities for clusters of high density residential developments;
 - what are the problems, if any, with current regulations regarding high density residential development;
 - what is the impact of zoning for high density residential on the preservation and redevelopment of existing residential properties.
2. An analysis of the options adopted by the Planning and Development Committee regarding high density housing in the Central Area. These options may include some of the following:
 - revisions to the provision of zoning districts for high density residential development. Modifications to the existing "E" Zones could include one or more of the following actions:
 - o lower maximum permitted heights;
 - o reduce yard requirements;
 - o permit greater site coverage;
 - o bonuses for lower height buildings (e.g., reduced parking requirements);

- o permit building height based on height of adjacent buildings; and/or,
- o the establishment of an additional zoning district for high density residential development.
- permit high density residential development in certain areas (e.g., along arterial roads). This option may require the down zoning of some areas while permitting higher densities in other areas.
- permit the transfer of development rights to other properties if land zoned for high density residential is developed at lower heights.
- permit other uses in the "E", "E-1", "E-2" and "E-3" Districts, such as additional commercial and institutional uses.
- allow the conversion of existing buildings to condominiums when permitted by current legislation (i.e., Rental Protection Act).
- designate Heritage Conservation Areas/Buildings to preserve the existing streetscape and allow compatible redevelopment within.
- permit additional lands to be designated and zoned for high density residential development.

The potential costs to the landowner and developer associated with any change in zoning will be evaluated as part of the study. A consultant with experience in urban design and the development of high density residential buildings should be hired to undertake such a review on a case study basis. This will allow for the implementation of a strategy which will be as fair as possible to both the existing residents and the developer. The consultant would act both in this specific way, as well as giving general advice on a per diem basis. The consultant would also attend public meetings.

3. Develop recommendations regarding high density residential development. The recommendations will include an overall implementation plan.

STAFFING

The study will be co-ordinated by staff of the Neighbourhood Planning Section of the Planning and Development Department. The staff complement will include:

- Director of Local Planning Branch;
- Managers from the Policy Planning and Analysis, Neighbourhood Planning, Development and Urban Design Sections;

- Planners with research expertise;
- Planning Technicians.

During Phase I, a temporary Planner III will be hired for a 59-day period to undertake the bulk of the work. In addition, a student will be hired to assist in data collection and analysis. During Phase II, a temporary Planner III may also be hired for a period of 59 days.

Consultation will also take place with LACAC, CAPIC, the Durand Neighbourhood Association and the Durand Neighbourhood Advisory Committees, at key points through Phase II of the study.

In order to avoid the cumbersome meetings which may occur with all the members of the four committees which have jointly met to discuss the study, an advisory committee should be established consisting of representatives of all the committees. The Committee shall consist of members from LACAC, CAPIC, each of the Durand Advisory Committees and should include representatives of the Development Industry.

Since the study deals with property rights, input from landowners and residents should be considered and evaluated prior to implementation of the study's recommendations.

TIMING

277 person days are required to undertake the study. See the attached flow chart for a detailed timing schedule.

COST

The estimated cost of the study is \$66,083.40 (see attached table).

STUDY-COST ESTIMATE

<u>Phase No.</u>	<u>Tasks</u>	<u>Estimated Time (Person Days)</u>	<u>Estimated Cost (\$)</u>
1.	Background research in needs for high density residential development.	M - 5 PI - 15 PIII - 59 S - 90	
	Identify area of "E" Zoning, existing development, heritage buildings.-		
	Determind effect of high density development on area.		
	Total	169	\$23,224.59
2.	Review existing regulations.	M - 14 PI - 20	
	Evaluate impact of high density residential development.	PIII - 59 PT - 15	
	Outline and evaluate options.		
	Outline recommendations (e.g., changing zoning, additional policies).		
	Consultation with residents and landowners.		
	Meetings with Advisory Committee, public meeting, Planning and Development Committee.		
	Evaluate cost options through case studies (Consultant).		
	Total	108	\$21,732.91
	SUBTOTAL	277	\$50,583.40

ADDITIONAL COSTS

Consultation (evaluational development costs, general guidance and presentation;	5,000.00
Contingency	2,500.00
Secretarial and Administrative	2,000.00
Cartographic	5,000.00
Computer	1,000.00
<hr/>	
SUBTOTAL	\$15,500.00
<hr/>	
TOTAL	(person days) 277
	\$66,083.40
<hr/>	

M	-	Manager
PI	-	Planner I
PIII	-	Planner III (Temporary)
PT	-	Planning Technician
S	-	Student

BJ:cs
WPDOC 0383P

HIGH DENSITY RESIDENTIAL DEVELOPMENT STUDY PROJECT TIMING

1987

PHASE NO.	TASK	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
		6 13 20 27	4 11 18 25	1 8 15 22 29	6 13 20 27	3 10 17 24 31	7 14 21 28	5 12 19 26	2 9 16 23 30	17 14 21 28
1	-background research in the needs for high density residential development									
	-identify areas of E zoning									
	-determine effect of zoning on areas									
	-interim report									
	-review regulations									
	-review regulations of other municipalities									
2	-evaluate impact of high density residential development									
	-evaluate costs of regulation changes on cost of land development (consultant to do case studies)									
	-outline and evaluate options									
	-outline recommendations									
	-draft report and finalize									

* ADVISORY COMMITTEE MEETING

+ PUBLIC MEETING

@ PLANNING AND DEVELOPMENT MEETING

COUNCIL MEETING

S SUBMIT TO MINISTRY OF MUNICIPAL AFFAIRS

115.

F O R A C T I O N

FROM: Planning and Development Department DATE: March 26, 1987

TO: Planning and Development Committee Refer to File: D.2.4

Attention: V. J. Abraham

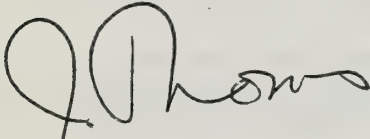
SUBJECT

Implementation of Section X of the City Subdivision Agreement requiring the erection of signs for plans of subdivision.

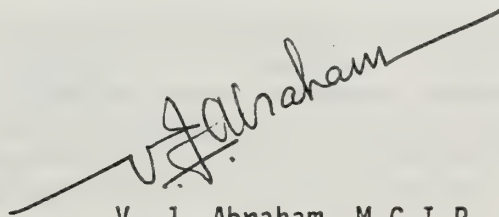
RECOMMENDATION

That approval be given to include the following additional standard condition of draft approval for all proposed plans of subdivision commencing from the date of Council's decision:

That the owner shall erect a sign in accordance with Section X of the Subdivision Agreement prior to the issuance of a final release by the City of Hamilton.



J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development



V. J. Abraham, M.C.I.P.
Director
Local Planning

BACKGROUND

In 1973, the Planning Board directed City Staff, including the Director of Planning, the City Engineer, Building Commissioner, City Treasurer and the City Solicitor to study the possibility of signs showing projected land uses of the entrances of subdivision. The proposed signs were requested from citizens who wanted to be aware of adjacent land use in relationship to a property they may wish to purchase. As a result of the study, the City Solicitor prepared the Restricted Area By-Law No. 73-135 which was approved by the Ontario Municipal Board Order on August 16, 1973 (O.M.B. File No. R73800). A copy is attached to this report as Appendix 'A'.

Subsequently, Planning Board directed staff to require subdividers, under the terms of the Subdivision Agreement to erect signs at the entrance of subdivisions.

Staff prepared a section of the Subdivision Agreement which is now Section X - "Signs showing projected land use". A copy is attached to this report as Appendix 'B'.

Under this section the subdivider is required "within one month after the date of registration of the Plan and before any lots on the Plan are sold", to erect signs in accordance with the requirements of the City of Hamilton.

Various attempts have been made to persuade developers to comply; without results.

It was found impractical and too time consuming to involve staff in field inspections to control the compliance with a subdivision agreement.

COMMENTS

1. The inclusion of the requirement for the erection of signs in the Subdivision Agreement without an enforcement clause does not work.
2. There are three possible solutions to remedy the existing situation with regard to the erection of signs, namely:
 - a substantial increase in the security amount of money as requested in Section X of the subdivision agreement, see Appendix 'B'.
The present requested amount of \$500 as an estimated cost for the erection, alteration, maintenance and removal of each sign does not appear to be an incentive to the owner/developer, therefore this amount should be substantially increased.
 - a request to the Committee and Council to delete Section X of the City Subdivision Agreement.
The deletion of Section X would also require the repeal of By-law No. 73-135 because the same would be redundant; or
 - a condition of draft approval requesting the owner to erect a sign in accordance with previous requirements.
This condition would force the owner to erect a sign as required in Section X of the Subdivision Agreement. Without approval and erection of this sign, the owner would not be able to receive approval of the final plan and therefore, could not register the subject plan of subdivision.
3. The most effective of the above-mentioned solutions appears to be the clause which requires the implementation of Section X of the Subdivision Agreement as a condition of draft approval. This would require an owner/subdivider to fulfill the condition of City Council for the placing of land use signs prior to receiving a final release from the City for registration of his plan. It would be in his interest to comply with this requirement expeditiously.

NOTICE OF APPLICATION to The Ontario Municipal Board
by The Corporation of the City of Hamilton for
approval of a by-law to regulate land use passed
pursuant to Section 35 of The Planning Act.

TAKE NOTICE that the Council of The Corporation of the City of Hamilton intends to apply to The Ontario Municipal Board pursuant to the provisions of Section 35 of The Planning Act for approval of By-law No. 73-135, passed on the 24th day of April A.D., 1973, set forth below as Schedule "A". A note giving an explanation of the purpose and effect of the By-law, stating the lands affected thereby is set forth below as Schedule "B".

ANY PERSON INTERESTED MAY, within fourteen (14) days after the date of this notice, send by registered mail or deliver to the Clerk of the City of Hamilton notice of his objection to approval of the said by-law, together with a statement of the grounds of such objection.

ANY PERSON wishing to support the application for approval of the by-law may within fourteen (14) days after the date of this notice send by registered mail or deliver to the Clerk of the City of Hamilton notice of his support of approval of the said by-law together with a request for a notice of any hearing that may be held giving also the name and address to which such notice should be given.

THE ONTARIO MUNICIPAL BOARD may approve of the said by-law but before doing so, it may appoint a time and place when any objection to the by-law will be considered. Notice of hearing that may be held will be given only to persons who have filed an objection or notice of support and who have left with or delivered to the Clerk undersigned, the address to which notice of hearing is to be sent.

THE LAST DATE FOR FILING OBJECTIONS will be Sat., July 14, 1973.

DATED at the City of Hamilton this 30th day of June, 1973.

City Clerk,
City Hall,
71 Main Street West,
HAMILTON, Ontario.

The Corporation of The City of Hamilton

BY-LAW NO. 73 - 135

To Amend:

Zoning By-law No. 6593

Respecting:

SIGNS AT ENTRANCES OF SUBDIVISIONS:
AND ON PROPOSED MULTIPLE DWELLINGS AND COMMERCIAL USES

WHEREAS it is desirable that General Zoning By-law No. 6593, passed on the 25th day of July, 1950 be amended in order to permit erection of signs in connection with subdivisions, multiple, residential and commercial developments so as to make prospective purchasers of land aware of the proposed land use in the area;

AND WHEREAS this By-law is in conformity with the Official Plan of the Hamilton Planning Area approved by the Minister of Treasury, Economics and Intergovernmental Affairs.

NOW THEREFORE the Council of The Corporation of the City of Hamilton enacts as follows:

1. Section 3 of By-law No. 6593 is amended by adding thereto the following subsections:

SIGNS

- (6) Signs located at the entrance of subdivisions showing the lay-out of the subdivision and the proposed land use in the surrounding area;
- (7) Signs located on a parcel or block of land proposed for multiple dwellings or commercial use showing the proposed multiple dwellings or commercial use.

2. The City Clerk is hereby authorized and directed to proceed as soon as possible with the giving of notice of the passing of this By-law, including a brief explanation of its purpose, and with the carrying out of all other directions of The Ontario Municipal Board relating to the giving of such notice.

3. The City Solicitor is hereby authorized and directed to make application to The Ontario Municipal Board for the necessary approval of this By-law.

PASSED this 24th day of April A.D., 1973.

E.A. Simpson
City Clerk.

Victor H. Copp
Mayor.

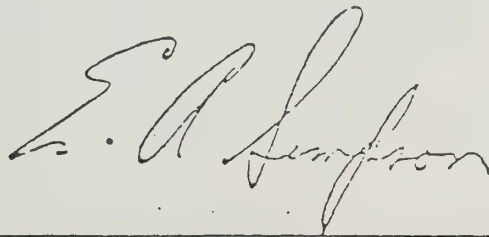
(1973) 1 R.P.B. 5, February 13

Exhibit "B"

EXPLANATORY NOTE

Subdividers will be required to erect signs at the entrance of the Subdivision showing the layout of the Subdivision and also projected land use in the surrounding area. In addition, signs will be required for each block of land for which multiple residential or commercial development is planned. The purpose of these signs will be to make prospective purchasers of property aware of the future land use in the area.

The proposed amendment to the Zoning Regulations provided in By-law 73-135 is to permit the erection of these signs.

A handwritten signature in cursive script, appearing to read "E. A. Simpson", is written above a horizontal line.

City Clerk
City Hall
Hamilton, Ontario

Refer to File No.

Attention of

Your File No.

SECTION X pages 6 and 7
of the SUBDIVISION AGREEMENT reads as follows:

SECTION X - SIGNS SHOWING PROJECTED LAND USE

Within one month after the date of registration of the Plan and before any lots on the Plan are sold, the subdivider shall erect signs on lots or blocks in the Plan, as follows:

- (i) General Sign: near the main entrance(s) to the subdivision, showing the projected use of the lands in the subdivision and the lands within 120 metres (400 feet) of the perimeter of the subdivision, and
- (ii) Particular Sign: on each lot or block of land within the subdivision whose projected use is commercial or multiple residential, showing such projected use.

The size and design of each such sign shall be to the satisfaction of the Regional Commissioner of Planning and Development. To save expense and delay, please prepare a draft sketch of the signs and duplicate of the sketches and submit the sketches to the Planning and Development Department for approval before you have the signs made.

In the event that the zoning of the lands shown on any such sign is changed, or in the event that any of the said lands are re-subdivided, the subdivider shall make appropriate changes in the information on

the signs within one month after the Regional Planning & Development Commissioner shall have sent the subdivider a written notice specifying the required changes. The subdivider shall maintain the said General Signs for two years from the date of registration of the Plan, or until all the lots in the said Plan shall have been built on and occupied by individual owners, if sooner. The subdivider shall maintain each Particular Sign until construction has begun on the lot or block to which such sign relates. When the maintenance period of each sign has expired, the subdivider will remove it. The erection, alteration, maintenance and removal of each sign shall be carried out at the expense of the subdivider. The estimated cost there of is \$500.00.

Specifications of Sign

1. Size - Minimum 4' x 8' up to 100 square feet.

2. Lettering - 3" letters for the title

1 1/4" letters for legend

All lettering shall be Upper Case and black in colour.

3. Show subdivision in question, plus 400' to 500' of surrounding area.

4. Colour Code.

Yellow - Single & Double Housing

Orange - Attached Housing

Brown - Apartments

Red - Commercial

Green - Open Space

Blue - Civic & Institutional

Purple - Industrial

5. All utilities shall so be named, such as Bell Telephone, Water Works, Hydro, etc.

6. All existing streets shall be named. Any proposed street should be shown and indicated as such.

7. Future land use designations shall be colour coded.

8. All walkways shall be shown and indicated as such.

Procedure:

The subdivider shall request from the Planning Department:

1. A reduced plan of the area to be identified.
2. Proposed uses to be identified.
3. The location of the sign.

The draft sketch when completed, should be inspected and approved by the Regional Planning and Development Department.

A Building Permit is required for installation. The sign will be installed according to the specifications of the Building Department.

All individual sites shall be specifically signed as to what the future use may be, as per examples on the following pages.

The size of the sign shall be a minimum of 4 feet x 4 feet.

SITE OF PROPOSED

COMMERCIAL DEVELOPMENT

AREA

SQUARE FEET

HEIGHT

STOREYS

SITE OF PROPOSED	
TOWNHOUSE DEVELOPMENT	
AREA	SQUARE FEET
HEIGHT	STOREYS
MAXIMUM	UNITS

SITE OF PROPOSED

MAISONETTE DEVELOPMENT

AREA SQUARE FEET

HEIGHT

STOREYS

MAXIMUM

UNITS

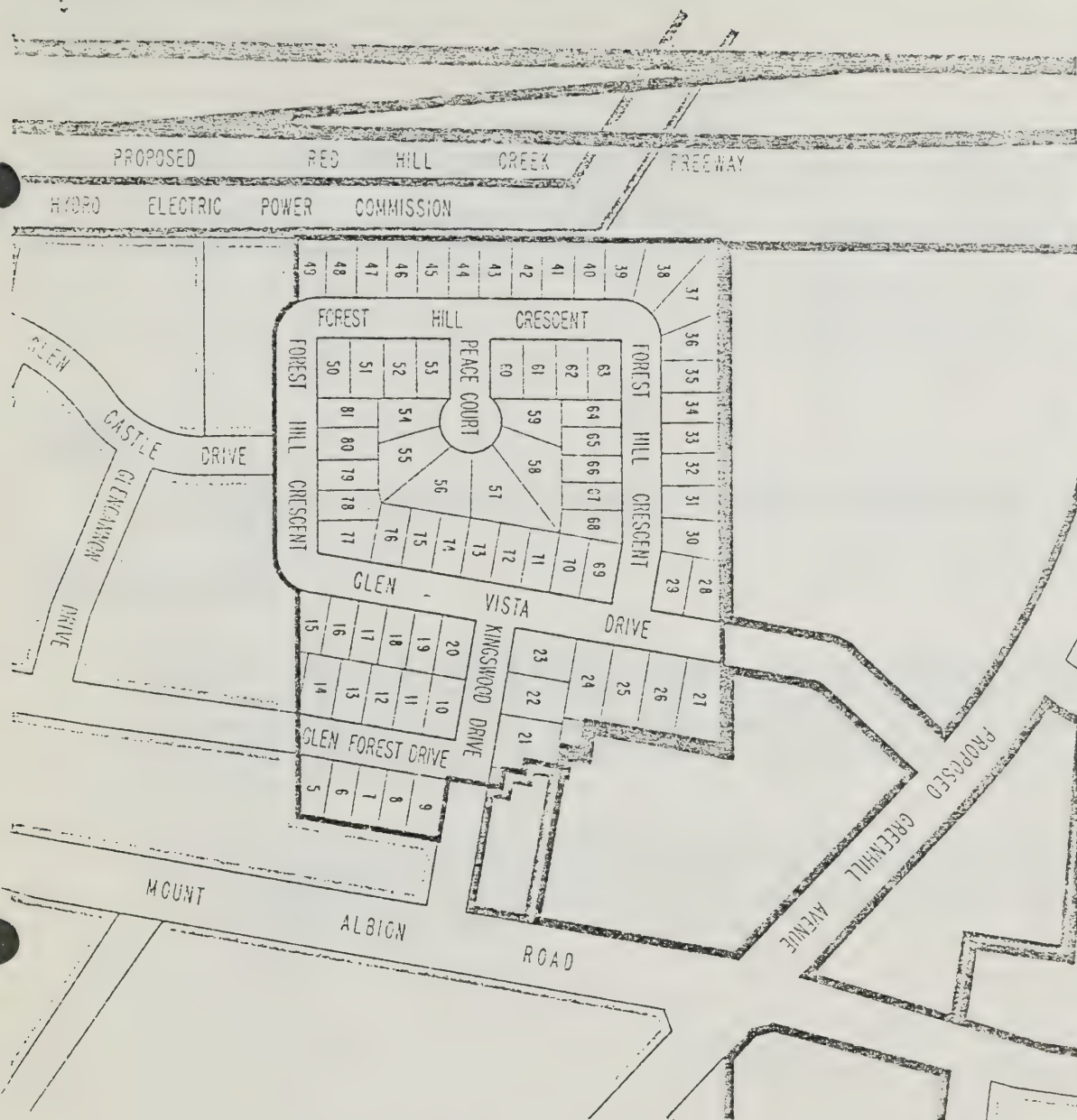
SITE OF PROPOSED	
APARTMENT DEVELOPMENT	
AREA	SQUARE FEET
***HEIGHT	STOREYS
MAXIMUM	UNITS

**** NOTE: Alternative;

"HEIGHT OF BUILDING WILL BE DETERMINED
BY PERMITTED DENSITY AND BUILDING
COVERAGE."

KINGSWOOD ESTATES No 2 AND

SURROUNDING DEVELOPMENT



LEGEND

- ☐ SINGLE & DOUBLE HOUSING
- ☐ ATTACHED HOUSING
- ☐ APARTMENTS
- ☐ COMMERCIAL
- ☐ OPEN SPACE

SAMPLE ONLY

17a.

DATE 1987 April 9

TO Planning & Development Committee

Refer To File No. _____

Attention Of _____

Your File No. _____

SUBJECT

Triangle of City-Owned Land, east of Proposed Parking Garage, York Boulevard.

RECOMMENDATION

That the City of Hamilton retain ownership of the triangle of City-owned land, east of the proposed Parking Garage on York Boulevard, as shown on the map herewith attached, until such time as the Planning and Development Committee has received the submission of the Design Brief being prepared by the Urban Design Committee.

Note: At its meeting held Wednesday, 1987 March 11, the Planning and Development Committee gave approval to the Urban Design Committee in conjunction with the Planning and Development Department to submit a design brief within a 90 day period.

S. K. Reeder
S. K. Reeder, Acting Secretary

BACKGROUND

Attached is a letter from the Director of Local Planning requesting that the Planning and Development Committee give consideration to the above-noted recommendation.



THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

Planning and Development Department
71 Main Street West, Hamilton, Ontario L8N 3T4

APR 8 1987

April 7, 1987

Refer to File No. P5-7-13
Attention of
Your File No.

Mrs. S. Reeder, Secretary
Planning and Development Committee

Dear Mrs. Reeder:

Re: Triangle of City-owned Land, East of
Proposed Parking Garage, York Boulevard

The Urban Design Committee passed the following resolution on
March 27, 1987:

"That Council be requested not to sell the land prior to a design
brief being prepared."

Although the Committee were delighted to be entrusted by the Planning and
Development Committee with producing an urban design brief within 90 days,
it was felt by members that it would be appropriate for City Council to
pass a resolution that the land not be sold prior to the submission of the
design brief.

The Urban Design Committee will be working over the next few weeks on the
urban design brief which will give guidelines on how the land can best be
developed from the planning point of view (see attached memo from CAPIC).

Yours truly,


V. J. Abraham, M.C.I.P.
Director of Local Planning

DG:cs
Attach.

MEMORANDUM • CITY OF HAMILTON

APR 14 1987

17b.

TO : Mrs. S. K. Reeder, Acting Secretary
Planning and Development Committee YOUR FILE:

FROM : Mr. J. J. Schatz, Secretary
Executive Committee OUR FILE :

SUBJECT : James Street North Streetscape DATE : 1987 April 14

At its meeting on Thursday, April 9, 1987, the Executive Committee was advised that a cost of approximately \$98 000 would be involved to implement a streetscape plan on the north side of York Blvd. from James Street to MacNab Street.

In addition, the Committee was advised that a cost of \$2 000 would be required to retain the services of a landscape architect to prepare a plan and cost estimates for the redevelopment of the triangular parcel of city owned lands on the north side of York Blvd, immediately west of James Street.

The Executive Committee agreed in principle that there would be merit in undertaking this project in view of the pending James Street North Streetscape Plan, the Cadillac Fairview/Eaton's Project and the municipal parkade, and is referring this matter to the Planning and Development Committee for its review and disposition.



JJS/dg

c.c.: Alderman Wm. McCulloch
Mr. E. W. Kowalski, Director of Community Development
Mr. E. C. Matthews, City Treasurer
Mr. D. W. Vyce, Director of Real Estate

FROM Planning and Development DepartmentDATE April 23, 1986TO Planning and Development CommitteeRefer To File No. ZA-85-19KENNEDY EAST
AND WEST
NEIGHBOURHOODAttention Of V. J. AbrahamSUBJECT

Request for a change in zoning from "AA" (Agricultural) District to an appropriate zoning district to permit the expansion of the St. Elizabeth Retirement Village on 21.14 ha. (52.25 acres) land located on the south side of Rymal Road West, east of the existing St. Elizabeth Retirement Village, in conjunction with an adjoining site in the Township of Glanbrook.

The purpose of the proposed change in zoning is to permit development of the subject lands for a retirement village, having 305 dwelling units, a club house, and ancillary uses within the City of Hamilton, and an additional 635 dwelling units proposed on adjoining lands to the south of the City within the Township of Glanbrook.

The proposed expansion, including the Glanbrook portion, would result in a retirement community having a total of approximately 1,255 dwelling units. The new dwelling units would be in addition to a 150 bed nursing home, management offices, a club house and cafeteria, and related commercial uses currently established at this location.

RECOMMENDATION

1. That approval be given to Zoning Application 85-19, St. Elizabeth Home Society of Hamilton, owner, to establish a change in zoning from "AA" (Agricultural) District to "DE" (Low Density Multiple Dwellings) District, for property located on the south side of Rymal Road West, east of the existing St. Elizabeth Retirement Village, as shown on the attached plan marked as APPENDIX "A", on the following basis:
 - i) That the subject lands be rezoned from "AA" (Agricultural) District to "DE" (Low Density Multiple Dwellings) District;
 - ii) That the "DE" (Low Density Multiple Dwellings) District regulations as contained in Section 10A of Zoning By-Law No. 6593 applicable to the subject lands, be modified to include the following variances as special requirements:
 1. Notwithstanding Section 10A(4) of By-Law No. 6593. the density of residential development not exceed 305 dwelling units;

2. Notwithstanding Section 2(2)A(viib) of By-Law No. 6593 a maximum of 10 townhouse dwelling units attached to each other, side by side, in one row shall be permitted;
3. Notwithstanding Section 10A(3) of By-Law No. 6593, there shall be provided and maintained;
 - a) a minimum front yard of 18.28 m;
 - b) a minimum easterly side yard of 7.50 m; and,
 - c) a minimum rear yard of 7.50 m.
4. There shall be provided and maintained between buildings;
 - a) a distance of not less than 4.5 m between two exterior walls containing no windows;
 - b) a distance of not less than 6.0 m between two exterior walls one of which contains at least one window to a habitable room;
 - c) a distance of not less than 15.00 m between two exterior walls each of which contains at least one window to a habitable room.
5. There shall be provided and maintained not less than 0.87 parking spaces for each dwelling unit.
6. Notwithstanding Section 10A(1) of By-Law No. 6593, the existing barn building located on the subject lands may be enlarged and converted to a clubhouse having a maximum gross floor area of 558 m².
7. Notwithstanding Section 4.(3)(a); Section 18.(8); and, Section 10A(1) of By-Law No. 6593 the following uses shall be permitted:
 - a) the three existing single-family dwellings located on the subject lands may be used as accessory uses to accommodate housekeeping and food services personnel and personnel who repair and maintain equipment and property accessory to the permitted use;
 - b) a two-family dwelling unit shall be permitted.
8. Notwithstanding Section 18(4)(iv) of By-Law No. 6593 an existing accessory storage building may be permitted in the required side yard;
9. Notwithstanding Section 18A(29) of By-Law 6593 the entrance to the parking space on the side of the street with sidewalks shall be located not less than 5.18 m from the entrance to the individual driveway, and on the side of the street with no sidewalk the parking space shall be located not less than 3.96 m from the entrance to the individual driveway.

10. That vehicular access between the existing and proposed St. Elizabeth Village developments be prohibited.
11. That the amending By-Law be added to Section 19B of the Zoning By-Law as Schedule S- and that the subject land on Zoning District Maps W-9E and W-17E be notated S- ;
12. That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps W-9E and W-17E;
13. That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

EXPLANATORY NOTE

The purpose of the By-Law is to provide for a change in zoning from "AA" (Agricultural) District to "DE" (Low Density Multiple Dwellings) to permit expansion of the St. Elizabeth Retirement Village complex on 21.14 ha (52.25 acres) of land located on the south side of Rymal Road West, east of the existing St. Elizabeth Village development.

The effect of the By-law is to provide for the following:

a maximum of 305 dwelling units;

a maximum of 10 townhouse dwelling units attached to each other, side by side, in one row;

conversion and enlargement of an existing barn located on the subject lands to a clubhouse having a maximum gross floor area of 558 m²;

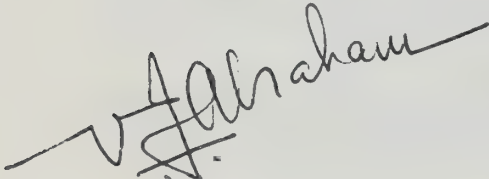
to permit three existing single family dwellings located on the subject property to be used as accessory uses to accommodate housekeeping and food service personnel and personnel who repair and maintain equipment and property accessory to the permitted use;

to permit a two-family dwelling which is otherwise not permitted within a group of multiple family dwellings;

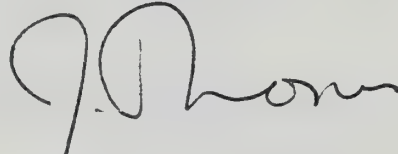
to permit an existing accessory storage building with the required side yard whereas an accessory building is only permitted in the rear yard.

to prohibit vehicular access between the existing and proposed St. Elizabeth Village developments.

In addition, the amending By-law establishes special requirements with respect to minimum yard requirements from the property lines, a reduction in the length of the entrance to the parking space between the street line and the attached garage, minimum distances between the buildings to be located on the site, as well as a parking requirement of not less than 0.87 parking spaces for each dwelling unit.



V. J. Abraham, M.C.I.P.
Director of Local Planning



J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development

APPLICANT

St. Elizabeth Home Society of Hamilton, owner.

LOT SIZE AND AREA

An irregular shaped parcel of land having 201.17 m (660.0 ft.) of frontage on Rymal Road West, and a lot area of 21.14 ha (52.25 acres).

SURROUNDING LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	Two single-family dwellings and agricultural lands	"AA" (Agricultural) District
<u>Surrounding Lands</u>		
To the north	Vacant agricultural lands and large lot rural residential dwellings	"AA" (Agricultural) District
To the south	Vacant agricultural lands (Township of Glanbrook) and a Hydro right-of-way	"AA" (Agricultural) Zone
To the east	Vacant agricultural lands and large lot rural residential dwellings	"AA" (Agricultural) District
To the west	St. Elizabeth Retirement Village	"DE" (Low Density) Multiple Dwellings District

OFFICIAL PLAN

Designated "Residential" the proposal complies.

NEIGHBOURHOOD PLANS

The subject lands are designated "St. Elizabeth Retirement Village" on the approved Kennedy East and Kennedy West Neighbourhood Plans. The applicant's plan does not fully implement the intent of the approved Kennedy East and West Neighbourhood Plans, as the applicant is proposing street connections between the existing and proposed St. Elizabeth Village Developments. The approved Kennedy West Neighbourhood Plan proposes only pedestrian links.

COMMENTS RECEIVED

- o The Building Department has advised that the following variances are required:

1. Clubhouse use
2. Single family service dwellings and two family dwellings which are contrary to 4(3)(a) and 18(8) of By-Law No. 6593.
3. Accessory building in side yard contrary to 18(4)(iv) of By-Law No. 6593.
4. Garages contrary to 18A(20) of By-Law No. 6593.

The service dwellings should be included in unit Schedule. Privacy areas are required under 10E(8) of By-Law No. 6593.

Buildings with more than eight units do not qualify as townhouse dwellings but are permitted as multiple dwellings.

- o The Ministry of Transportation and Communications has "no comments or objections to offer".

- o The Township of Glanbrook has advised that:

"The Township of Glanbrook has no objection to the proposed rezoning to provide for expansion for the existing St. Elizabeth Retirement Village. However, it appears that a portion of the subject lands are within the watershed under the jurisdiction of the Niagara Peninsula Conservation Authority and, as such, that the natural flow of the storm water from the subject lands is to the south-east. In this regard, the Township requests that a condition of the final approval of the proposed development of the subject land be the provision by the owner of a comprehensive storm drainage report and plan which provides for the adequate drainage of the storm water from the subject lands and that also take into account the downstream storm drainage system. This comprehensive storm drainage report and plan shall require the approval of the appropriate agencies."

- The Hamilton-Wentworth Department of Social Services has advised that they support the expansion and it appears that no negative social impacts will result.
- The Fire Department has advised that:

"Fire hydrants and fire access routes shall be provided for all buildings in accordance with all applicable sections of current Ontario Building and Fire Codes".
- Transport Canada-Air has advised that:

"The property is situated beneath the Outer Surface Area depicted on pages 2-13 and 3-13 of the Hamilton registered zoning document.

These lots (3 and 4) are, therefore, restricted in height of construction to 275 metres above mean sea level".
- The Hamilton-Wentworth Engineering Department - (see APPENDIX "B" attached).
- The Transportation Department - (see memo attached).
- The Niagara Peninsula Conservation Authority has advised that:
 - "1. The lands located within the 1 in 100 year flood plain, which traverses this property, should be designated as "hazard", or some similar designation to preclude development in flood susceptible areas.
 2. The subject lands are included in the "Southwest Mountain Master Servicing Study". Provided the proposal proceeds in compliance with the Storm Water Management Controls outlined in this document, the runoff levels generated by the proposed development will be controlled."
- The Traffic Department has advised as follows:

"On February 23, 1987, a meeting was held between the Traffic Department and Mr. Douglas Coutts, Parker Consultants, representing the St. Elizabeth Village Developers. Mr. Coutts indicated that the developers would be pursuing the development as submitted, i.e. three internal connections between the proposed expansion and the existing development and one full-time access to Rymal Road. We have reviewed the expected traffic generation resulting from this option and as a result have concluded that while a second point of access to Rymal Road could be advantageous, we would accept the access concept as submitted.

In the event that the development is approved as submitted, the proposed emergency access should be developed with a minimum 30 foot pavement width. This provision will allow this access to be utilized as a temporary access during the construction of Garth Street, south of Rymal Road. In addition, the proposed development should be reviewed by the Fire Department to ensure that the internal road system connecting to the "Emergency Access" will actually allow for their maneuvering requirements."

BACKGROUND

● Zoning History

On July 31, 1979 City Council passed By-law 79-226 which facilitated the initial development of the St. Elizabeth Retirement Village. The By-law was approved by the O.M.B. on January 23, 1980 and permits a maximum residential development density of 350 dwelling units, a 150 bed nursing home, management offices, a club house and cafeteria, and commercial uses.

On August 25, 1981 City Council passed By-law No. 81-235 which deleted the requirement for development of the Village to proceed by registered plan of subdivision as set out under By-law 79-226. The By-law was approved by the O.M.B. on November 17, 1981.

On July 27, 1983 City Council passed By-law No. 83-221 which permits a banquet hall having a maximum seating capacity of 1,000 persons. Subsequent to an O.M.B. hearing the Board approved the By-law on December 13, 1984.

On May 15, 1985 the Planning and Development Committee considered the subject application and decided to approve it in principle. In addition, the applicant was required to undertake the preparation of a Neighbourhood Plan for the Kennedy East and West Neighbourhood, and a Servicing and Watermanagement Study for the area.

On May 28, 1985 City Council adopted the recommendation of the Planning and Development Committee to approve the application in principle.

On October 22, 1986 the Kennedy West Neighbourhood Plan was adopted by the Planning and Development Committee, and City Council approved the Neighbourhood Plan as recommended on October 28, 1986.

On March 11, 1987 the Kennedy East Neighbourhood Plan was adopted by the Planning and Development Committee, and City Council approved the Neighbourhood Plan as recommended on March 31, 1987.

● Submission

The applicant has submitted a development plan which forms the basis of the zoning proposal. Since the zoning application proposes only that the rezoning be amended to an appropriate zoning district to permit the development, it is suggested that the site also be zoned "DE" (Low Density Multiple Dwellings) District, modified corresponding to the zoning established for the existing St. Elizabeth Village development.

The proposal provides for the following:

269 - 1 storey - 2 bedroom townhouse units

36 - 1 storey - 1 bedroom townhouse units

- 3 - existing single-family dwellings to be used to accommodate housekeeping and food service personnel and personnel who repair and maintain equipment and property accessory to the permitted use.

a clubhouse within an existing barn building (total gross floor area including small additions 558 m).

a storage building (existing use).

The "DE" (Low Density Multiple Dwellings) District provisions applicable to the development would involve the following variances as special requirements:

- a) to permit a maximum of 305 dwelling units (Section 10A(3);
- b) to permit a maximum of 10 townhouse dwelling units attached to each other, side by side, in one row;
- c) to provide and maintain the following yards;
 - i) a minimum front yard of 18.28 m;
 - ii) a minimum easterly side yard of 7.50 m;
 - iii) a minimum side yard of 7.50 m.
- d) to provide and maintain between buildings:
 - i) a distance of not less than 4.5 m between two exterior walls containing no windows;
 - ii) a distance of not less than 6.0 m between two exterior walls, one of which contains at least one window to a habitable room;
 - iii) a distance of not less than 15.00 m between two exterior walls, each of which contains at least one window to a habitable room.

- e) a minimum parking ratio of 0.87 spaces per dwelling unit to be established in garages or on the proposed internal road system.
- f) to permit the existing barn building located on the subject lands to be enlarged and converted to a clubhouse having a maximum gross floor area of 558 m².
- g) to permit three existing single-family dwellings located on the subject lands to be used as accessory uses to accommodate housekeeping and food services personnel and personnel who repair and maintain equipment and property accessory to the permitted uses.
- h) to permit a two-family dwelling within a group of multiple family dwellings.
- i) to permit an existing accessory storage building within the required side yard.
- j) to permit a reduction in the length of the entrance to the parking space from the entrance to the individual driveway from 6.0 m to 5.18 m on the side of the street with sidewalks, and to 3.96 m on the side of the street with no sidewalks.

COMMENTS

1. The proposal complies with the intent of the Official Plan.
2. City Council are on record of approving the development in principle upon the subsequent completion of the Neighbourhood Plans, Servicing Study and Water Management Study. Regarding the completion of the Neighbourhood Plan, both the Kennedy East and West Neighbourhood Plans have been approved by City Council. The Kennedy East Neighbourhood Plan provides for an ingress and egress point on Rymal Road East, and restricts internal circulation between the existing and proposed St. Elizabeth Village Developments to only pedestrian access. In this regard, the applicant's proposal conflicts with the intent of the approved Kennedy East Neighbourhood Plan as the access point on Rymal Road East is for emergency vehicles only, and he intends to establish three internal road connections between the existing and proposed St. Elizabeth Village developments at McKenna Court and proposed Bishop Tonnos way, Boyes Gate and proposed Cardinal Mindszenty Boulevard and at proposed Sister Dobos Way and the proposed extension of Sister Dobos Way.

Upon reviewing the site plan for the development and taking into consideration the nature of the variances established, the variances are not unreasonable and can be supported.

The Traffic Department and the Transportation Department has advised (see comments) that development should be approved as submitted, the proposed development should be reviewed with respect to the emergency access and the circulation and design of the internal road system connecting to the "Emergency Access".

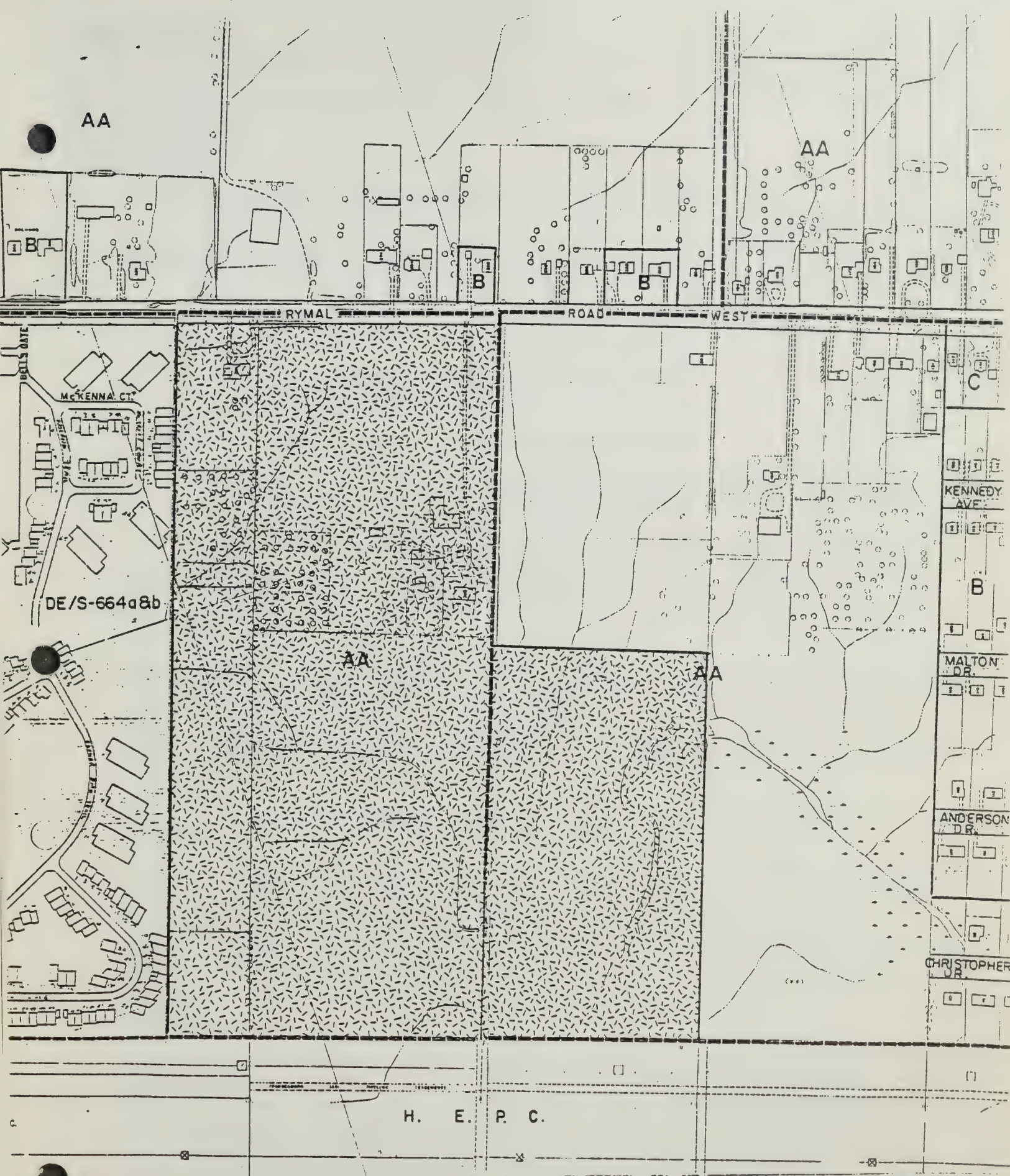
3. From a land use point of view, the proposal has merit and can be supported for the following reasons:
 - i) it provides an alternative form of housing accommodation for the elderly in a planned environment which, to date, has been of a high calibre and a benefit to the City.
 - ii) the proposed use would be compatible with existing and proposed development in this area comprised primarily of single family development, and as well with the existing St. Elizabeth Retirement Village Development and the proposed Berksin Retirement Community Development which was approved-in-principal by City Council for adjoining lands to the west of the existing St. Elizabeth Retirement Village Development.
 - iii) public watermains are available to service the subject lands and a sewer agreement has been signed with the Region.
4. Development of the lands would be subject to Site Plan Control. In this regard the applicant would be required to submit site plans for the approval of the Planning and Development Committee prior to the issuance of a building permit. Matters related to road widenings could be dealt with at the site plan approval stage. The applicant may be required to enter into an Access Agreement with the Region of Hamilton-Wentworth for the roadway improvements required on Rymal Road as a result of this development. Details of the road widenings are contained in the attached letter from the Regional Engineering Department.

CONCLUSION

On the basis of the foregoing, the application can be supported.

G.A.W.:nd

W.P. DOC. 0469P



SITE OF THE APPLICATION



ZA85-19

APPENDIX A



THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

Department of Engineering
71 Main Street West, Hamilton, Ont. L8N 3T4 (416) 526-4170

October 7, 1986

Refer to File No. E220-1100
Attention of K.A. Brenner
Your File No. DA-86-74
(ZA-85-19)

TO: V.J. Abraham, Planning Department
Attention: J. Sakala

FROM: K.A. Brenner, Engineering Department

RE: Site Plan Control Application DA-86-74 for 289 Units
Phase II, Sister Elizabeth Village on the South Side
of Rymal Road West, Hamilton

The designated road allowance width of Rymal Road West is 36.0 m (118.11 feet). As a condition of approval, we recommend that sufficient lands be dedicated to the Region to establish the road allowance width.

According to our records, the road allowance widening on the west side of lands to be developed is 7.443 m (24.42 feet) in width and on the east side of the lands to be developed, the road widening width is 7.114 (23.34 feet). Since the road allowance widening varies in width, the applicant should contact the Regional Surveyor prior to the preparation of detailed survey plans etc.

The site plans submitted by the applicant should be revised in accordance with this road allowance widening requirement.

Any work within the Rymal Road road allowance, as widened must conform to the Region of Hamilton-Wentworth, Roads Use By-Law. The fencing and hedging must be located outside the Rymal Road road allowance as widened, including the portion of the daylight triangle at the future neighbourhood street location. The sodded swales should be on private property and outside the limits of the Rymal Road road allowance as widened. Revised plans should be re-submitted for our review and approval.

In order to establish proper distances between signalized intersections for progression, and in order to maintain adequate visibility for traffic entering Rymal Road, the centreline of the proposed access to Rymal Road is to be established a minimum of 45.72 m (150 feet) east of the division line between lots 3 and 4 (as shown on Waterworks Plan 79-W-494). Furthermore, this location has been identified as the future neighbourhood collector street from the north in the Sheldon Neighbourhood.

continued.....

APPENDIX B

Site Plan Control Application DA-86-74 for 289 Units Phase II,
Sister Elizabeth Village on the South Side of Rymal Road West, Hamilton

CONTINUED.....

We also recommend that this entrance/exit be established as a two-way access to Rymal Road and that additional lands be dedicated for road allowance widenings at this time as shown on the attached sketch plan.

According to our traffic generation figures supplied by the applicant, it is anticipated that a full left turn lane for westbound traffic on Rymal Road at the second access, east of 301 Rymal Road is not required. However, it is our recommendation that a left turn slip around generally is introduced on two-lane highways at 'T' intersections when the following criteria are met:

Where left turn volumes do not warrant a standard left turn lane but are sufficient to cause problems for thorough traffic,

Where bypassing vehicles throw gravel from the shoulder onto the roadway

We therefore, recommend, as a condition of approval, that the applicant/owner enter into an Access Agreement with the Region to provide for these improvements on Rymal Road West.

The grading plan appears to be, in general, satisfactory. However, we wish to advise the applicant of the following:

- 1) The sizes and elevations of the retaining ponds are subject to possible changes,
- 2) The applicant should grant the City of Hamilton, storm water easement over the flood plain areas within the development,
- 3) The grading plans do not include any grading information on the Rymal Road road allowance.

The applicant should therefore:

- a) include that information on his plan or,
- b) include a note to the effect that the existing drainage on Rymal Road road allowance will not be, in any way, affected by the subject development.

TLH/FAR:mc

Encl.

cc: M.A. Chidley, Regional Surveyor

E220-1101

FROM

G. S. Aston

DEPARTMENT

Transportation Dept.

DATE

87.03.03.

SUBJECT

Site Plan Control
Application PA-86-74Regional Planning and
Development Department
Attn: John Sokala

MESSAGE

John:

Our most recent comments on the above-noted application are based on 3 internal vehicle connections between the existing St. Elizabeths Development and the proposed extension in the City of Hamilton and the Township of Glanbrook. Should the plans be revised to eliminate vehicle connections between the existing and proposed developments, we recommend that the application be resubmitted for our comments since the traffic patterns and impact on Rymal Road may require roadway improvements. These will be determined at such time as the plans are resubmitted.

HLS

Thank you
[Signature]

USE LOWER PORTION FOR REPLY

REPLY FROM

DATE



A 10-E

INTER-OFFICE MEMO

TO REPLY: RETAIN WHITE ORIGINAL — RETURN PINK



THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

Department of Transportation

(ROADS) 71 Main Street West, Hamilton, Ont. L8N 3T4 (416) 526-4277
(TRANSIT) 18 Wentworth St. N., Hamilton, Ont. L8L 5V1 (416) 527-4441

PLANNING & DEVELOPMENT
PLANNING BRANCH

DA-86-74 APR 7 1987

I.D.0136D (26)

April 6, 1987

TO: J. Sakala
Planning and Development Department

FROM: G. S. Aston, Manager *G. S. Aston*
Roadway Programming

RE: Site Plan Control Application D.A. 86-74
St. Elizabeth Village

STAFF	UNIT	INFO	ACT.
Refer to File No.	E220-1101		
Attention of	H. N. Groen		
Your File No.			
DEV.			
E&UD.	<i>HM</i>		
STAFF	<i>LS</i>		
CART.			
ADMIN.			

We refer to our previous correspondence on the above-noted application with respect to road allowance widenings, roadway improvements and access to Rymal Road. Our previous comments should be amended to state that as a condition of site plan approval we recommend that the applicant enter into an Access Agreement with the Region of Hamilton - Wentworth for possible roadway improvements on Rymal Road at the access(es) to the Sister Elizabeth Village from Rymal Road. The details of these roadway improvements will be finalized at such time as the site plans have been approved by the City of Hamilton Planning and Development Committee and/or Ontario Municipal Board. All costs associated with these roadway improvements will be at the expense of the applicant/owner.

Should you require further information please contact myself at 526-4294.

HNG HNG:eb

c.c. City of Hamilton, Traffic Dept.
Att: Roland Karl

c.c. Regional Engineering Dept.
Att: K. A. Brenner

70. FATHER BIRD TRAIL
HAMILTON

ONTARIO

L9B-178

APRIL 20TH 87.

DEAR SIR/MADAM.

WE WOULD FIRST OF ALL, LIKE YOU TO
KNOW WE ARE NOT IN THE HABIT OF WRITING LETTERS
TO THE CITY. —

BUT AS YOU, WE ARE SURE, ARE WELL AWARE, THERE
IS A GROWING NEED FOR MORE SENIOR HOMES AND
ACCOMMODATION IN ONTARIO, AND ST ELIZABETH HOME
SOCIETY IS TRYING TO DO SOMETHING ABOUT THIS.

THERE IS A LONG WAITING LIST OF SENIORS WHO
WOULD LIKE TO GET INTO THE VILLAGE HERE, AND WE
HAVE FRIENDS WHO HAVE BEEN WAITING OVER TWO
YEARS, HOPING SOME MORE HOMES CAN BE BUILT,
THEY HAVE EVEN ASKED IF THERE SHOULD BE ANY
VACANCIES IN THE PRESENT VILLAGE, THEY'D BE
WILLING TO TAKE ONE OF THOSE INSTEAD OF A
NEWER HOME SOMETIME IN THE FUTURE.

BUT AS FAST AS A PLACE BECOMES VACANT
IT IS TAKEN. SOME ARE NOT EVEN LISTED FOR
SALE, AND SOME ARE SOLD IN ONE DAY!

IF THINGS ARE REALLY AS BAD HERE, AS SOME
TRY TO SAY IT IS, THEN HOW COME THERE ARE
NEVER ANY VACANCIES HERE.?!?

AND WHY IS THERE NOT AN EXODUS TO GREENER
PASTURES BY THOSE WHO COMPLAIN?!

WE CHOSE TO COME HERE, TO TRY AND LIVE IN
PEACE, AND NOT HAVE TOO MANY WORRIES AS WE GET
OLDER. AND I FEEL, OTHERS IN THE SAME SITUATION
IN THE FUTURE, SHOULD HAVE THE SAME CHANCE AS
WE HAD, A CHANCE TO LIVE IN A SENIOR VILLAGE,
AND HOPE THEY CAN LIVE IN PEACE & HARMONY.

WE REMAIN
YOURS SINCERELY
Alex L. Hood & Edith G. Hood.

11 D Father Biro Trail,
Hamilton, L9B 1V2
April 20 1987

The Planning Board,
71 Main Street West,
Hamilton, L8N 3T4

Dear Sirs;

I have been a resident of St. Elizabeth Village for almost two years. I look forward to the expansion of the Village, but I think it essential that there be a roadway between the present development and the one to be built, primarily so that all may use the Garth Street entrance which has the safeguard of a light.

Furthermore, there are services already in place, such as a bank, a grocery store, pool, pharmacy and others which will not be duplicated. Also, present residents look forward to using the increased recreational facilities to be offered in the new part.

To suggest that all must drive out onto Rymal Road, go along a few yards to the other part, and use one entrance onto that busy highway without the benefit of a light is utter folly, and asking for accidents to happen.

Remember, we are all seniors here, many have disabilities which prevent walking, were that the only access between the two sections.

Please give this your serious consideration.

Yours truly

Roberta Richardson
(Mrs. Roberta Richardson)

Mrs L. L. Falconer.
634 S.E. 21st Place.

MAR 19 1987

To whom it May Concern.

-Cape Coral
Florida 33904.

U.S.A.

March 7th 1987

Dear Sir/Madam.

I am a former resident of the City of Hamilton. I have spent some holidays with friends currently living in St Elizabeth Village. I was very impressed with this village and the area in Hamilton. I decided to make inquiries to great extent, and subsequently completed an application to purchase one of the units in the new proposed development.

I am now distressed to learn there has been a delay in the progress of construction of this new phase in the development due to conflict between those residents who are fortunate to own units, and Management. I am lead to believe these tenants are responsible for this delay, and are quite adamant about St Elizabeth growing, which seems to me to be very unreasonable. I do understand there are a great number of people on a waiting list of me, so therefore the longer it takes for a decision to be made and put into effect for the increase in the development, which surely has to come in favour of those of us who appear to be in the majority as opposed to those fortunate residents who are trying to block it. My opinion is they are being very unjustly inconsiderate. I am a widow, 54 years old, and I would be very comfortable owning a unit, if I were able to see the possibility in the close future.

Would it be too much of an imposition to request the Planning Board of Hamilton City - or the committee whatever, look at this situation which I'm lead to believe is at a standstill although Contractors/owners of St Elizabeth Village are prepared to start building. I would be very interested in the outcome on behalf of my self, and many others who are waiting. Thank you. I would be very appreciative of your earnest consideration in this matter.

Sincerely
Lily Falconer.

3 E 37th APR 15 1987, Apr 118,

Hamilton, Ontario L8V 4A7,

April 3, 1987.

24 85-19

Mr Victor J. Abraham,
Director of Local Planning,
71 Main St., W.,
City Hall, Hamilton, Ontario.

✓ JZG

GW
AZ

Copy
to Thompson

Dear Mr Abraham,

I am writing to you as an aging person who wishes to secure a unit at St. Elizabeth Village and am waiting for accommodation in the proposed extension of their St Elizabeth East Development. I inquire quite often regarding the building plans and each time they advise me that the Planning Board have not yet approved their plans for the proposed extension.

The reasons for the delay on the part of the Planning Board are unknown to me but I do know how important it is for those of us wishing to become settled in this very desirable type of accommodation for seniors which I would like to go on record as saying is the best I have seen anywhere.

As well as allowing people to live at ground level with easy access to the outdoor and pleasant surroundings, there is the opportunity for recreational activities, a flower garden, a patio, safe winding streets for walking and biking and a general sense

of security which all help to promote a normal and healthy lifestyle.

It would seem to me that this type of Community for Seniors will be a Model for Other Areas in Canada and Hamilton should be commended for their participation in the planning of such a Community.

I look forward to hearing, in the next short time, that you have been able to circumvent the obstacles which are delaying the extension of this much needed project.

Yours truly,
Helen Jasken.

November 10, 1986.

Mr. J. D. Thompson, Secretary,
Planning & Development Committee,
The Corporation of the City of Hamilton,
City Hall,
HAMILTON, Ont.

Dear Mr. Thompson: Re: Kennedy West and Section of Kennedy
East (St. Elizabeth Home Society Lands)
Neighbourhood proposed plans and the
St. Elizabeth Zoning Application ZA-85-19

The Residents Association of St. Elizabeth Village,
represented by:

President: Hiram Wood, 4 Jaczenko Terrace,
Hamilton, Ont. L9B 1T8

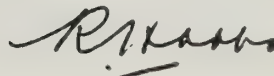
Vice-President: Dr. Robert Smith, 46 McKenna Court,
Hamilton, Ont. L9B 1T8

Secretary: Rosalie Hobbs, 13 Jaczenko Court,
Hamilton, Ont. L9B 1T8 388-3442.

wishes to have any and all information that comes before the
Committee in regard to the zoning, site planning, etc. that
affects the lands on the South side of Rymal Road West, in the
area east of Garth Street known as the extension to the present
St. Elizabeth Retirement Village, or "Elizabeth East".

We wish to be advised well in advance, as we do not
want the recommendations of the Planning and Development Committee
of October 22nd, 1986, and those of the City Council of October
28th, 1986, overturned.

Yours very truly,



Rosalie Hobbs, Secretary,
Residents Association of St. Elizabeth
Village.

cc to Mr. E. A. Simpson,
City Clerk.

18b.

FROM	<u>Planning and Development Department</u>	Date	April 22, 1987
TO	<u>Planning and Development Committee</u>	Refer to File No.	DA-86-74 (ZA-85-19) KENNEDY WEST AND KENNEDY EAST NEIGHBOURHOOD
		Attention Of	V.J. Abraham

PROPOSAL

Plans have been submitted for approval for the development of St. Elizabeth Village East as the extension of the existing St. Elizabeth Village located on the south side of Rymal Road West, east of Garth Street.

The proposed extension will contain a total of 305 dwelling units, primarily townhouse structures. A few semi-dwelling structures and existing single-family structures will also be located within the development together with an existing barn renovated for a clubhouse and a maintenance structure.

New ponds and landscaping will be created within the development similar to the spaces in the existing development.

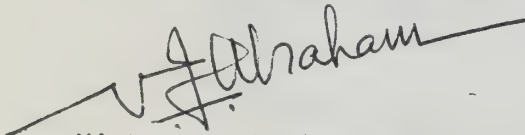
Access to the new development will be by three driveways extended from the existing development to the west and one emergency access from Rymal Road West. One main driveway will connect to a future development immediately south.

RECOMMENDATION

That approval be given to Site Plan Control Application DA-86-74 by St. Elizabeth Home Society, owner of lands on the south side of Rymal Road West, east of Garth Street, for development of 305 dwelling units as an extension of the existing St. Elizabeth Village, subject to the following:

- (a) approval of the by-law implementing Zoning Application ZA-85-19 to permit the development;
- (b) modification to the plan to delete the three vehicular connections to the existing development to the west and to provide one main access to Rymal Road West to the satisfaction of the Transportation Department of the Region of Hamilton-Wentworth;
- (c) modification to the plan related to dimensions and notes as marked in red on the plans;
- (d) modification to the plan related to additional grading information to the satisfaction of the Commissioner of the Hamilton-Wentworth Engineering Department;

- (e) submission of a plan indicating fire hydrant locations to the satisfaction of the Fire Prevention Department;
- (f) submission of a final landscape plan to the satisfaction of the Director of the Planning and Development Department to incorporate the details to implement the submitted conceptual landscape plan.
- (g) dedication of a road widening of approximately 7.4 m (24 ft.) to the Region of Hamilton-Wentworth; and,
- (h) submission of the typical building elevation plan to the satisfaction of the Director of the Planning and Development Department.



Victor J. Abraham, M.C.I.P.
Director of Local Planning



J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development
Department

APPLICANT

St. Elizabeth Home Society, owner.

LOCATION AND DESCRIPTION

The subject land has a street frontage on Rymal Road West of approximately 269.7 m (885 ft.), a lot depth of 597.82 m (1,961.35 ft.) and a lot area of approximately 21.15 ha (52.25 acres). Much of the subject land has been used as farm land and orchards with two existing residences on the land with one barn.

ZONING

The land is the subject of Zoning Application ZA-85-19 which is presently under review to permit the proposed development.

RESULTS OF CIRCULATION

See attached comments.

COMMENTS

1. The proposed development is subject to finalization of Zoning Application ZA-85-19 and any requirements of the resulting by-law.

2. At its meeting of October 22, 1986, City Council adopted certain policies regarding the extension of the St. Elizabeth Retirement Village which indicated that no vehicular traffic be permitted between the existing retirement village and the proposed extension of the village and that the neighbourhood plan indicate access to and from Rymal Road West to serve the new development.

The submitted plan indicates three driveways connecting the existing and proposed developments, a connecting road to a future development to the south and an emergency access to Rymal Road West.

The plan should therefore be modified in accordance to the policy adopted by City Council and should be redesigned with an access to Rymal Road West to the satisfaction of the Transportation Department of the Region of Hamilton-Wentworth.

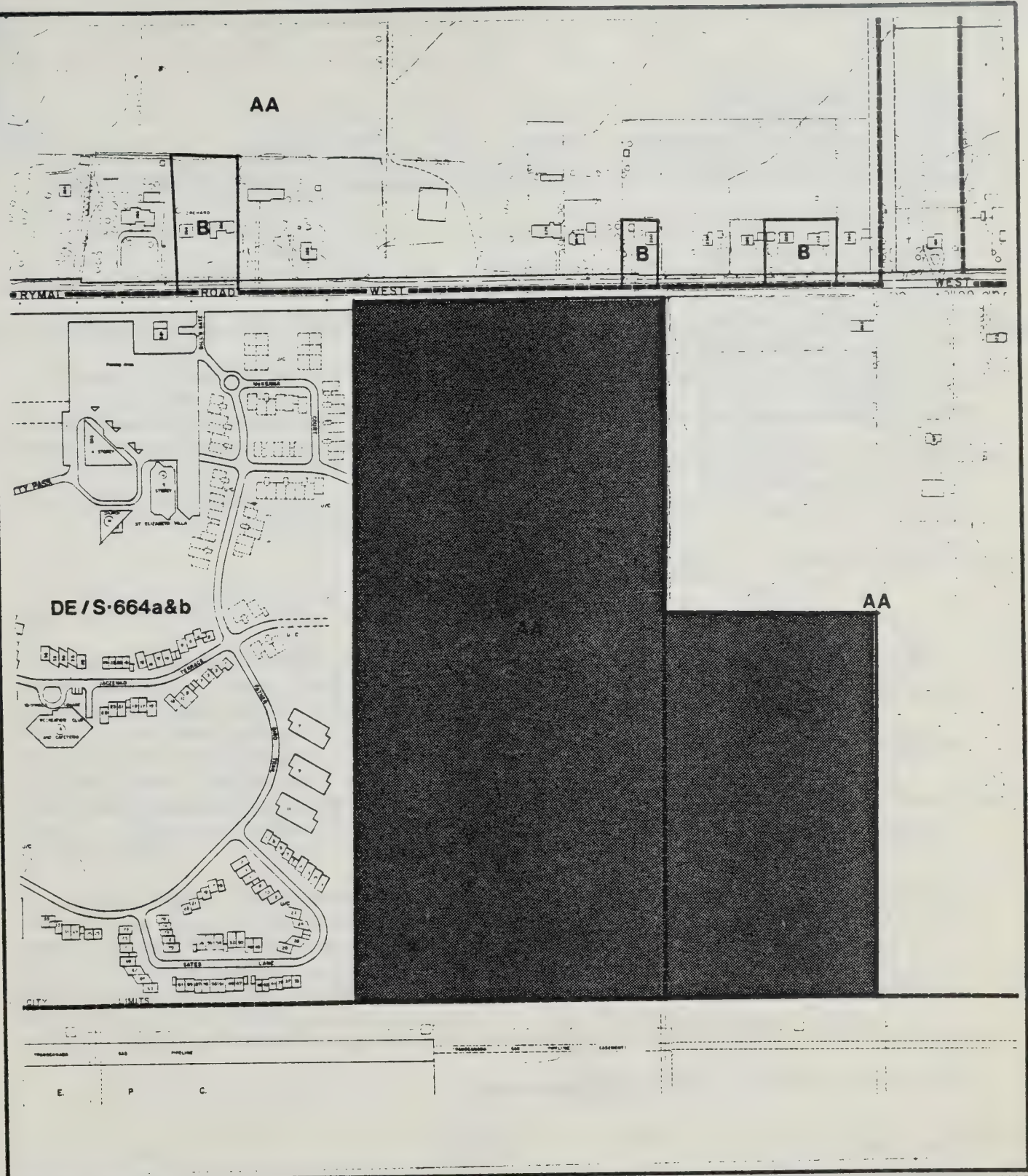
Should the Planning and Development Committee wish to reconsider the access from the existing development, the neighbourhood plan and policy must be amended accordingly. The applicant will then also be subject to road improvements along Rymal Road West required by the new development.

3. Modifications are required to the plans related to dimensions and notes and are marked in red on the submitted plans.
4. The Engineering Department has advised that the submitted grading plan require additional information pertaining to the drainage pattern details and should be modified to the satisfaction of the Commissioner of the Hamilton-Wentworth Engineering Department.
5. The Fire Prevention Department has indicated that a revised site plan is required to indicate the location of fire hydrants throughout the development to the satisfaction of the Fire Prevention Department.
6. The submitted landscape plan indicates a conceptual design showing deciduous and coniferous plantings, walkways and recreation areas. Although the concept is satisfactory, a detailed planting plan should be submitted indicating names, numbers and sizes of materials to be installed. It should be noted that the individual unit owners are left the option to provide plantings as they wish in front of the particular units. This concept is satisfactory subject to the open spaces and parking areas being developed with the guidelines proposed by the conceptual landscape plan.
7. The Hamilton-Wentworth Engineering Department has noted that a road widening of approximately 7.4 m (24 ft.) is required and should be dedicated to the Region as a condition of approval of the plans.
8. The applicant has not submitted any building elevations for the proposed development. Although the units are to be similar to those already established in the existing development, a typical building elevation should be included with this application.

CONCLUSION

Subject to the above-noted comments, the development plans are satisfactory.

JS:lm
W.P. DOC. 0471P (1-4)



PLAN SHOWING
LANDS SUBJECT TO

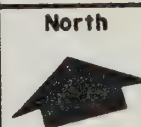
SITE PLAN CONTROL
APPLICATION DA-86-74

Regional Municipality of Hamilton-Wentworth
Planning and Development Department

Legend



SITE OF THE APPLICATION



Scale
1:5,000

Date
SEPT, 1986

Reference File No.
DA-86-74

Drawing No.
86-H-194

PLANNING & DEVELOPMENT
LOCAL PLANNING BRANCH

File No.

Received

FEB 5 1987

FROM

TO: STAFF INFO. TRATCH

DEPARTMENT

FIRE PREVENTION

DATE

JANUARY 30, 1987

SUBJECT

DA-86-74 - PHASE II,

SISTER ELIZABETH VILLAGE

MESSAGE

1986 ONT. BUILDING CODE

9.10.89.4 + 9.10.19.5

315

CART

ROOM

Fire access routes and
private fire hydrants will be required
within this survey and should be
provided in conformance with the
following:

a The unobstructed path of travel
for firefighters from fire hydrants to
the principal entrance of every building
shall not exceed 90 m.

b Construction details for fire access
routes should conform to 3.2.5.2.6(b-g)
of the 1986 Ont Building Code.

c Minimum flow rate available from
private hydrants should be 500 l.p.m.
or the maximum available from the
municipal supply.

USE LOWER PORTION FOR REPLY

REPLY FROM

DATE



THE CORPORATION OF THE CITY OF HAMILTON

City Hall, 71 Main Street West, Hamilton, Ontario L8N 3T4

PLANNING & DEVELOPMENT LOCAL PLANNING BRANCH				
File No.		Received		
DA-86-74		MAR 16 1987		
TO	STAFF	INIT.	INFO.	ACT.
DIR.				
DR & A.				
ENGR.				
✓ U.S.				
✓ COMM.				
✓ STAFF				
CART.				
ADMIN.				

1987 March 05

Mr. V.J. Abraham, M.C.I.P.
Director of Local Planning
Planning and Development Department

Attention: Mr. J.J. Zipay

Re: DA-86-74
St. Elizabeth Village

Dear Sir:

On February 23, 1987, a meeting was held between the Traffic Department and Mr. Douglas Coutts, Parker Consultants, representing the St. Elizabeth Village Developers. Mr. Coutts indicated that the developers would be persuing the development as submitted, ie. three internal connections between the proposed expansion and the existing development and one full-time access to Rymal Road. We have reviewed the expected traffic generation resulting from this option and as a result have concluded that while a second point of access to Rymal Road could be advantageous, we would accept the access concept as submitted.

In the event that the development is approved as submitted, the proposed emergency access should be developed with a minimum 30 foot pavement width. This provision will allow this access to be utilized as a temporary access during the construction of Garth Street, south of Rymal Road. In addition, the proposed development should be reviewed by the Fire Department to ensure that the internal road system connecting to the "Emergency Access" will actually allow for their maneuvering requirements.

Yours truly,

Murray F. Main
Murray F. Main, P. Eng.
Director of Traffic Services

RK:lh
RK



THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

Department of Transportation
(ROADS) 71 Main Street West, Hamilton, Ont. L8N 3T4 (416) 526-4277
(TRANSIT) 18 Wentworth St. N., Hamilton, Ont. L8L 5V1 (416) 527-4441

PLANNING & DEVELOPMENT PLANNING BRANCH		
DA-86-74 APR 7 1987		
STAFF	INSTR.	ACT.
Refer to File No.	E220-1101	
Attention of	H. N. Groen	
Your File No.		
DEV.		
E&HD	VM/Wh	
STAFF	LS	
CART.		
ADMIN.		

I.D.0136D (26)

April 6, 1987

TO: J. Sakala
Planning and Development Department

FROM: G. S. Aston, Manager *G. S. Aston*
Roadway Programming

RE: Site Plan Control Application D.A. 86-74
St. Elizabeth Village

We refer to our previous correspondence on the above-noted application with respect to road allowance widenings, roadway improvements and access to Rymal Road. Our previous comments should be amended to state that as a condition of site plan approval we recommend that the applicant enter into an Access Agreement with the Region of Hamilton - Wentworth for possible roadway improvements on Rymal Road at the access(es) to the Sister Elizabeth Village from Rymal Road. The details of these roadway improvements will be finalized at such time as the site plans have been approved by the City of Hamilton Planning and Development Committee and/or Ontario Municipal Board. All costs associated with these roadway improvements will be at the expense of the applicant/owner.

Should you require further information please contact myself at 526-4294.

HA HNG:eb

c.c. City of Hamilton, Traffic Dept.
Att: Roland Karl

c.c. Regional Engineering Dept.
Att: K. A. Brenner

E220-1101

FROM

G. S. Aston

DEPARTMENT

Transportation Dept.

DATE

87.03.03.

SUBJECT

Site Plan Control
Application PA-86-74Regional Planning and
Development Department
Attn: John Sokala

MESSAGE

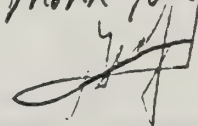
John:

Our most recent comments on the above-noted application are based on 3 internal vehicle connections between the existing St. Elizabeths Development and the proposed extension in the City of Hamilton and the Township of Glanbrook. Should the plans be revised to eliminate vehicle connections between the existing and proposed developments, we recommend that the application be resubmitted for our comments since the traffic patterns and impact on Rymal Road may require roadway improvements. These will be determined at such time as the plans are resubmitted.



USE LOWER PORTION FOR REPLY

REPLY FROM

Thank you


DATE



THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

Department of Engineering
71 Main Street West, Hamilton, Ont. L8N 3T4

PLANNING & DEVELOPMENT

COASTAL PLANNING BRANCH

FILE NO. DA-86-74 MAR 5 1987

STAFF ADVISORY ACT.

	DIR.			
	PR. & A.			
	NEIGH.			
	DEV.			
X	E. & U.D.	MM		
X	STAFF	JS		
	CART.			
	ADMIN.			

March 3, 1987

Refer to File No. E220-1100
Attention of K. A. Brenner
Your File No. DA-86-74

TO: J. Sakala, Planning and Development
FROM: K. A. Brenner, Environmental Planning Engineer
RE: Site Plan Control Application No. DA-86-74 for 289 Units
Phase II, Sister Elizabeth Village on the South Side
of Rymal Road West, Hamilton

Our comments of October 7, 1986 (see attached letter) are still applicable.

K.A. Brenner

DWW/FAR:kd

FR



THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

Department of Engineering
71 Main Street West, Hamilton, Ont. L8N 3T4 (416) 526-4170

October 7, 1986

Refer to File No. E220-1100
Attention of K.A. Brenner
Your File No. DA-86-74
(ZA-85-19)

TO: V.J. Abraham, Planning Department
Attention: J. Sakala

FROM: K.A. Brenner, Engineering Department

RE: Site Plan Control Application DA-86-74 for 289 Units
Phase II, Sister Elizabeth Village on the South Side
of Rymal Road West, Hamilton

The designated road allowance width of Rymal Road West is 36.0 m (118.11 feet). As a condition of approval, we recommend that sufficient lands be dedicated to the Region to establish the road allowance width.

According to our records, the road allowance widening on the west side of lands to be developed is 7.443 m (24.42 feet) in width and on the east side of the lands to be developed, the road widening width is 7.114 m (23.34 feet). Since the road allowance widening varies in width, the applicant should contact the Regional Surveyor prior to the preparation of detailed survey plans etc.

The site plans submitted by the applicant should be revised in accordance with this road allowance widening requirement.

Any work within the Rymal Road road allowance, as widened must conform to the Region of Hamilton-Wentworth, Roads Use By-Law. The fencing and hedging must be located outside the Rymal Road road allowance as widened, including the position of the daylight triangle at the future neighbourhood street location. The sodded swales should be on private property and outside the limits of the Rymal Road road allowance as widened. Revised plans should be re-submitted for our review and approval.

In order to establish proper distances between signalized intersections for progression, and in order to maintain adequate visibility for traffic entering Rymal Road, the centreline of the proposed access to Rymal Road is to be established a minimum of 45.72 m (150 feet) east of the division line between lots 3 and 4 (as shown on Waterworks Plan 79-W-494). Furthermore, this location has been identified as the future neighbourhood collector street from the north in the Sheldon Neighbourhood.

continued.....

Site Plan Control Application DA-86-74 for 289 Units Phase II,
Sister Elizabeth Village on the South Side of Rymal Road West, Hamilton

CONTINUED.....

We also recommend that this entrance/exit be established as a two-way access to Rymal Road and that additional lands be dedicated for road allowance widenings at this time as shown on the attached sketch plan.

According to our traffic generation figures supplied by the applicant, it is anticipated that a full left turn lane for westbound traffic on Rymal Road at the second access, east of 301 Rymal Road is not required. However, it is our recommendation that a left turn slip around generally is introduced on two-lane highways at 'T' intersections when the following criteria are met:

Where left turn volumes do not warrant a standard left turn lane but are sufficient to cause problems for thorough traffic,

Where bypassing vehicles throw gravel from the shoulder onto the roadway

We therefore, recommend, as a condition of approval, that the applicant/owner enter into an Access Agreement with the Region to provide for these improvements on Rymal Road West.

The grading plan appears to be, in general, satisfactory. However, we wish to advise the applicant of the following:

- 1) The sizes and elevations of the retaining ponds are subject to possible changes,
- 2) The applicant should grant the City of Hamilton, storm water easement over the flood plain areas within the development,
- 3) The grading plans do not include any grading information on the Rymal Road road allowance.

The applicant should therefore:

- a) include that information on his plan or,
- b) include a note to the effect that the existing drainage on Rymal Road road allowance will not be, in any way, affected by the subject development.

TLH/FAR:mc

Encl.

cc: M.A. Chidley, Regional Surveyor

19.

NOTICE OF PUBLIC MEETING

SUBJECT: James Street North Community Improvement Plan;
Commercial Facade Loan Programme

DATE: 1987 April 29

TIME: 7:30 p.m.

PLACE: City Hall, 2nd Floor Lobby

The Planning and Development Committee will be holding a public meeting to receive comments from the residents and business people concerning the James Street North Community Improvement Plan written for the purpose of implementing the Commercial Facade Loan Programme. Generally, the area affected covers James Street North from Vine Street to the C.N.R. Station.

For further information contact the Department of Community Development at 526-4540.

City Hall
Hamilton, Ontario
Date _____

E. A. Simpson
City Clerk

MAR 19 1987

F O R A C T I O N

FROM Mr.-E. W. Kowalski, Director,
Community Development DATE 1987 March 18

TO Planning and Development Committee Refer To File No. 800-0602.5

Attention Of _____

Your File No. _____

SUBJECT

James Street North Community Improvement Plan; Commercial
Facade Loan Programme.

RECOMMENDATION

- i) That the Planning and Development Committee hold a public meeting to receive comments concerning the James Street North Community Improvement Plan.

E. Kowalski

BACKGROUND

As the Committee members are aware, implementation of the Commercial Facade Loan Programme was approved by City Council 1986 June 24 (Twelfth Report of the Planning and Development Committee for 1986). In order to implement this programme within the Business Improvement Area's, Community Improvement Project Areas must be designated by by-law and corresponding Community Improvement Plans must be adopted by Council and approved by the Ministry of Municipal Affairs.

Accordingly, City Council has approved plans for the Downtown Core Redevelopment Area (addendum number 2), Ottawa Street, Concession Street, Westdale Village and, James Street North on 1986 November 11 (Twenty-fourth Report of the Planning and Development Committee for 1986).

Originally, a public meeting to address the James Street North Commercial Facade Loan Programme and the streetscape improvement would have been held early this year (1987). Since the streetscape improvements will not proceed until 1988 and, in order to expedite the Commercial Facade Loan Programme, these two items will have to be addressed at separate public meetings.

c.c. Mr. K. A. Rouff, City Solicitor
Att: Mr. P. M. Eker, Legislation Counsel

Urban Municipal
Library
Central Library

E. A. SIMPSON
CITY CLERK

K. E. AVERY
DEPUTY CITY CLERK



CITY HALL
HAMILTON, ONTARIO
L8N 3T4

THE CORPORATION OF THE CITY OF HAMILTON


OFFICE OF THE CITY CLERK

1987 May 8

CA4 ONHBL 1987
C51P4
1987

NOTICE OF MEETING

Planning and Development Committee
Wednesday, 1987 May 13
2:00 o'clock p.m.
Room 233, City Hall


Susan K. Reeder
Acting Secretary

AGENDA

2:00 o'clock p.m.

- A. (i) Delegation
Jockey Club Tavern Limited re: exemption from the special levy imposed by the Ottawa Street North Business Improvement Area.
- (ii) Report
Director of Community Development re: Jockey Club Tavern Limited and the Ottawa Street North Business Improvement Area (B.I.A.)
- B. Delegation
Mrs. M. Evel, Arbor Florist, 10 John Street North re: Phase III of the Downtown Hamilton Action Plan; Visual Conflict of Lighting Pole and Overhanging Sign.
- 1. (i) Minutes of the meeting held Wednesday, 1987 April 1st.
- (ii) Minutes of the meeting held Wednesday, 1987 April 15th.
(copy to follow)
- (iii) Minutes of the meeting held Wednesday, 1987 April 29th.
(copy to follow)
- 2. Mayor Robert M. Morrow
(a) Written submissions on planning issues. (no copy)

Planning and Development Committee

3. Building Department
 - (a) Demolition Permit Applications
 - (i) 10 Dorothy Street
 - (ii) 2774 King Street East
 - (b) City of Hamilton By-law 84-35 - To Provide for "Maintaining Land in a Clean and Clear Condition" - City Appeal to the Court of Appeal - Judicial Review - Edward Allen, 81 Francis Street.
(for information)
4. Community Development Department
 - (a) Commercial Improvement Programme.
 - (b) Ontario Home Renewal Programme (O.H.R.P.)
 - (c) Second Level Lodging Home programme, Mr. Roy Bennett, 160 Park Street South.
 - (d) Hamilton Rehabilitation Programme. (H.A.R.P.)
(PRIVATE AND CONFIDENTIAL) (for information)
5. Real Estate Department
 - (a) Settlement of Expropriation - Part 239 York Street - D. Nash and B. Morison - York Street Redevelopment Project.
 - (b) Sale of vacant City owned land on the southerly limit of York Boulevard between Hess Street and Queen Street to Douglas L. Nash and Brian W. Morison.
 - (c)
 - (i) Sale of vacant City owned land - 425 York Boulevard -between Locke and Pearl Streets to Victoria Park Community Homes Inc.
 - (ii) Sale of vacant City owned land - 425 York boulevard between Locke and Pearl Streets to Jubilee Consultant Services - Hamilton.
 - (d) Extension of Closing Date - Sale of 484 James Street North.
6. Executive Committee
 - (a) Renaming of Art Gallery Plaza - The Commonwealth Plaza.
 - (b) Standing Committee Meeting Schedule.
7. Local Architectural Conservation Advisory Committee
 - (a) Designation of 158 Mary Street.
 - (b) Designation of "the Gardener's Cottage" at 25 Tecumseh Street.

Planning and Development Committee

- (c) Designation of MacNab Street Presbyterian Church.
 - (d) Pigott and Sun Life Buildings - Heritage Permit Application.
 - (e) Heritage Policy Review. (for information)
8. Regional Engineering
- (a) Cash Payment in Lieu of 5% Parkland Dedication
 - (i) "Dicenzo Gardens Phase I", Hamilton.
 - (ii) "Strawberry Hill Addition", Hamilton

Planning and Development Committee

PUBLIC MEETING

3:00 o'clock p.m.

9. City Initiative CI-87-D, for modification to the "C" District regulations for No. 111, 112, 115, 117, 121, 124, 125, 128, 129, 131, 132, 141, 144, 151, 153 St. Clair Avenue and No. 193 Delaware Avenue; St. Clair Neighbourhood.
Public Meeting - 3:00 p.m.
10. Zoning Application ZA-87-26, Millen Construction Limited, owner, for a change in zoning from "AA" and "C" to "R-4" District for lands on the south side of Beaverton Drive and east of Acadia Drive; Butler Neighbourhood.
Public Meeting - 3:00 p.m.
11. Zoning application ZA-87-27, E. and E. Corsini, owners, for a modification to the "C" District regulations for property at No. 1019 Fennell Avenue East; Sunninghill Neighbourhood.
Public Meeting - 3:00 p.m.
12. Zoning Application ZA-87-35, Y. Tandarich, prospective owner, for a modification to the "H" District regulations for property at NO. 649 Main Street West; Westdale South Neighbourhood.
Public Meeting - 3:15 p.m.
13. Zoning Application ZA-87-37, Hamilton Thistle Club, owner, for a change in zoning from "E" to "E-3", modified for property at No. 85 Robinson Street; Durand Neighbourhood.
Public Meeting 3:15 p.m.
14. Site Plan Control Application Approval (for information)
15. Authorization for Public Meeting - Dunrand neighbourhood. (P5-2-41)
16. (a) Request to waive the requirement of an Environmental Impact. Statement for the westerly portion of a proposed plan of subdivision "Hixon Road". (25T-86045).

(b) Subdivision Application SA-86-28, F. DeClerico, owner, to establish 5 lots for single-family dwellings at the westerly termination of Hixon Road, South of the T.H. & B. railway; Red Hill Neighbourhood.

Wednesday, 1987 April 1
2:00 o'clock p.m.
Room 233, City Hall

1(i)

The Planning and Development Committee met.

There were present: Alderman J. Smith, Chairman
Alderman D. Ross, Vice-Chairman
Alderman T. Cooke
Alderman W. McCulloch
Alderman B. Hinkley
Alderman D. Christopherson
Alderman S. Collins
Alderman H. Merling

Regrets: Mayor R. M. Morrow - City Business

Also present: Alderman T. Murray
Mr. V. Abraham, Director of Local Planning
Mr. P. Lampman, Building Department
Mr. R. Doucette, Building Department
Mr. K. Brennen, Regional Engineering
Mr. E. Kowalski, Director of Community Development
Mr. M. Watson, Real Estate Department
Mr. J. Thoms, Regional Planning Department
Mr. R. Karl, Traffic Department
Mr. D. Godley, Regional Planning Department
Mr. R. Buckle, Real Estate Department
Mr. G. Groppler, Regional Planning Department
Mr. D. Vyce, Manager of Property
Mr. V. Matus, Regional Planning Department
Mr. J. Sacala, Regional Planning Department
Mr. L. Sage, Chief Administrative Officer
Mrs. S. K. Reeder, Acting Secretary

The Committee was in receipt of minutes of the meeting held Wednesday, 1987 February 23. It was moved by Alderman Collins, seconded by Alderman Christopherson and carried that these minutes be tabled in order that several errors and omissions be corrected.

Minutes - 1987
February 23

The Committee was in receipt of correspondence dated 1987 March 13 from Alderman Brian Hinkley respecting an amendment to the Ontario Municipal Act, Section 217, Appointments to Business Improvement Association Boards of Management.

Appointments to
Business Improve-
ment Association
Boards of Manage-
ment

It was moved by Alderman Ross, seconded by Alderman Hinkley and carried to adopt the following resolution:

"WHEREAS the Ontario Municipal Act, Section 217, provides that the Board of Management shall consist of such number of members of Council appointed by Council; and

WHEREAS the City of Hamilton considers it advisable to have members of Council assist and advise Business Improvement Associations, and generally act in a resource capacity, and not be full voting members of the Boards of Management of Business Improvement Associations; and

THEREFORE BE IT RESOLVED that the City of Hamilton request the Provincial Minister of Municipal Affairs to amend the Municipal Act to ensure that members of Council participate in the Business Improvement Association's affairs in the capacity of ex-official members (i.e. to have voice, but no vote); and

BE IT FURTHER RESOLVED that the Ontario Association of Municipalities be requested to support this resolution."

OMB Hearing -
947 Main St. E.

Alderman Hinkley addressed the Committee on staff attendance at the Ontario Municipal Board Hearing respecting 947 Main Street East. Alderman Hinkley indicated to the Committee that this hearing is being held in respect to the Committee of Adjustment Application A-87:14 in which the City denied an application from the owners of 947 Main Street East to convert the existing Law Office into a Residential Care Facility.

It was moved by Alderman Ross, seconded by Alderman Hinkley and carried to approve the following:

That the City Solicitor's Department and the City Planning Department be authorized and directed to have staff attend the upcoming Ontario Municipal Board Hearing on the City's behalf in order to defend the City's by-laws in denying Committee of Adjustment Application A-87:14.

Note: The above-noted Committee of Adjustment Application involves property located at 947 Main Street East and the owner's request to convert the existing law offices into a residential care facility.

Legal Fees-re:
Library, Farmer's
Mkt., Butler et.al
vs City/Architects

The Committee was in receipt of a report from the City Solicitor dated 1987 March 20 respecting fees re: Library, Farmer's Market - Butler et. al vs. City/Architects. The Committee then approved the following:

That the interim account of Weir and Foulds, Barristers and Solicitors, dated December 29, 1986 and January 28, 1987 in the respective amounts of \$1,166.23 and \$5,652.53 for a total of \$6,818.76 be paid.

Note: These accounts cover services from July 14, 1986 to December 31, 1986.

By adopting Section 20 of the Twenty-fifth Report of the Planning and Development Committee at its meeting of September 24, 1985, City Council approved that the firm of Weir and Foulds, Barristers and Solicitors be retained under the direction of the City Solicitor to act for the City in regard to the Supreme Court of Ontario action commenced against the City by Anthony Butler, Philip R. Brook, William E. Carruthers and John J. Shaw carrying on the practice of architecture under the name Anthony Butler/Brook Carruthers Shaw Associated Architects for the Hamilton Central Library and Farmers' Market.

Legal Fees-re:
Barnett Expropria-
tion 10, 14 &
14½ Market

The Committee was in receipt of a report from the City Solicitor dated 1987 March 6 respecting Barnett Expropriations - 10, 14 and 14 1/2 Market Square. The Committee then approved the following recommendation:

That the account of Weir and Foulds dated January 29, 1987 in the amount of \$752.55 inclusive of disbursements, for services rendered from January 11, 1985 to January 16, 1987 be paid.

Note: Weir and Foulds were retained in January of 1974 to act as the City's counsel with respect to these and other expropriations in the Lloyd D. Jackson Square urban renewal area.

Planning and Development Committee

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Mr. Barnett and his family owned several properties that were expropriated. Proceedings with respect to all but 10, 14 and 14 1/2 Market Square have been completed. As soon as Mr. Barnett and his solicitors are through formulating their claims with respect to 10, 14 and 14 1/2 Market Square, Weir and Foulds will be able to attempt a negotiated settlement, failing which, same will proceed to the Land Compensation Board.

The Committee was in receipt of a report from the Secretary/Treasurer of the Committee of Adjustment dated 1987 March 13 respecting the 1987 OACA Conference (Hamilton, Ontario). The Committee then approved the following:

1987 OACA Conference (Hamilton, Ontario)

That Committee of Adjustment members, F. Rocchi, Chairman, Alderman H. Merling, M. Skofac, F. Lombardo, C. Young and L. G. Woods be authorized to attend and co-host the 1987 OACA Conference to be held in Hamilton on June 7, 8, 9 & 10 at a total expense not exceeding \$780.

The Committee was in receipt of a report from the Engineering Department dated 1987 March 6 respecting Subdivision - 5% Park Payment. Discussion ensued on this matter, and the Committee agreed that the Treasurer be required to report once a year on the funds collected with respect to this 5% Park Payment.

Subdivision - 5% Park Payment

It was then moved by Alderman Collins, seconded by Alderman Christopherson and carried to adopt the following amended recommendation:

Whereas, subdividers not conveying lands for park purposes are required to make cash payments in accordance with the Planning Act.

Whereas, the value of such payment is calculated by the Real Estate Department in accordance with the Planning Act and in keeping with proper appraisal standards.

Whereas, in the past, the 5% payment value was approved by Council on the recommendation of the Planning and Development Committee.

It is now resolved that:

- (a) The amount of 5% payment for park purposes in subdivisions be calculated by the Real Estate Department and collected through the subdivision agreements without submission to Council; and
- (b) The value be reviewed by the Planning and Development Committee and Council if the Subdivider disputes the value established by the Real Estate Department.
- (c) That the City Treasurer submit a Report on an annual basis to the Planning & Development Committee on the payments received.

The Committee was in receipt of a report from the Building Commissioner dated 1987 March 25 respecting Demolition Permit Applications. It was indicated to the Committee that the request for a demolition permit for 202 Glow Avenue should be tabled in view of the fact that demolition on the property has already been started and that the City is proceeding with legal action.

Demolition Permit Applications

The Committee then agreed to table the Demolition Permit Application for 202 Glow Avenue.

-202 Glow Avenue

The Committee approved the following recommendation respecting Demolition Permit Applications:

That the Building Commissioner be authorized to issue demolition permits for the demolition of residential buildings as outlined below:

- (a) 733 Upper Paradise
- (b) 89 Reid Street North
- (c) 30 Beland Avenue North
- (d) 33 Albert Street

Normanhurst O.N.I.P.
Citizens Advisory
Committee

The Committee was in receipt of a report from the Director of Community Development dated 1987 March 13 respecting the Normanhurst O.N.I.P. Citizens Advisory Committee. Alderman Collins pointed out that there was a correction on the list of members of that Committee, and indicated that Alderman Christopherson and Alderman Copps should be listed and that Alderman Wheeler should be deleted as he did not serve as a member of the Committee at that time.

The Committee then approved the following amended recommendation:

- (a) That, recognition be made by Hamilton City Council to the members of the Normanhurst O.N.I.P. Citizens Advisory Committee attached as Appendix "H";
- (b) That, such recognition be in the form of a certificate or letter of appreciation from the Council of the Corporation of the City of Hamilton, signed by the Mayor and the City Clerk and affixed with the seal of the Corporation.

Homeside Ontario
Neighbourhood
Improvement Pgmme.
(O.N.I.P.)
Citizens Advisory
Committee

The Committee was in receipt of a report from the Director of Community Development dated 1987 March 13 respecting the Homeside Ontario Neighbourhood Improvement Program (O.N.I.P.) Citizens Advisory Committee.

The Committee then approved the following recommendation:

- (a) That, recognition be made by Hamilton City Council to the members of the Homeside O.N.I.P. Citizens Advisory Committee attached as Appendix "I";
- (b) That, such recognition be in the form of a certificate or letter of appreciation from the Council of the Corporation of the City of Hamilton, signed by the Mayor and the City Clerk and affixed with the seal of the Corporation.

McQuesten Ontario
Neighbourhood
Improvement Pgmme.
(O.N.I.P.)
Citizens Advisory
Committee

The Committee was in receipt of a report from the Director of Community Development dated 1987 March 13 respecting the McQuesten Ontario Neighbourhood Improvement Program (O.N.I.P.) Citizens Advisory Committee. Alderman Collins indicated to the Committee that the names of Alderman Christopher and Alderman Copps should be added, and that the name of Alderman Wheeler should be deleted since he did not serve on the Committee at that time.

The Committee then approved the following amended recommendation:

- (a) That, recognition be made by Hamilton City Council to the members of the McQuesten O.N.I.P. Citizens Advisory Committee attached as Appendix "J";

Planning and Development Committee

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- (b) That, such recognition be in the form of a certificate or letter of appreciation from the Council of the Corporation of the City of Hamilton, signed by the Mayor and the City Clerk and affixed with the seal of the Corporation.

The Committee was in receipt of a report from the Director of Community Development dated 1987 March 18 respecting the James Street North Community Improvement Plan; Commercial Facade Loan Programme.

The Committee then approved the following recommendation:

That the Planning and Development Committee hold a public meeting to receive comments concerning the James Street North Community Improvement Plan.

The Committee was in receipt of a report from the Director of Community Development dated 1987 March 20 respecting the Jamesville Business Improvement Area (B.I.A.); Revised Board of Management Appointments.

The Committee then approved the following recommendation:

- (a) That By-Law #86-74 appointing the Jamesville Business Improvement Area Board of Management be amended to delete the following names:

O. Simoes	I. Miller
B. Clark	J. Morgan

And, add the following:

K. Sherman	B. Miller
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- (b) That the City Solicitor be authorized and directed to amend By-law #86-74 pursuant to (a) above.

Note: As stated in Section 217, Sub-section 6 and 8 of the Municipal Act:

(6) "A Board of Management....is a body corporate and shall consist of such a number of members appointed by Council"

(8) "Where a vacancy occurs from any cause, the Council shall appoint a person qualified"

The Committee was in receipt of a report from the Director of Community Development dated 1987 March 13 respecting a Private and Confidential Matter involving the Ontario Home Renewal Programme - Registration of Loan on Tax Roll - Mrs. Mary Remegius Hasick, 322 East 33rd Street.

The Committee then approved the following recommendation:

That the total outstanding O.H.R.P. Loan for Mrs. Mary Remegius Hasick, 322 East 33rd Street, in the amount of \$777.54 be placed on the tax rolls.

The Committee was in receipt of a report from the Director of Community Development dated 1987 March 16 respecting a Private and Confidential Matter involving a Hamilton Rehabilitation Programme - Registration of Loan on Tax Rolls - Mr. George McWilliam, 102 Tisdale Street South.

James Street North
Community Improve-
ment Plan;
Commercial Facade
Loan Programme

Jamesville Business
Improvement Area
(B.I.A.); Revised
Board of Manage-
ment Appointments

Ontario Home
Renewal Programme
Registration of
Loan on Tax Roll -
Mrs. Mary
Remegius Hasick,
322 East 33rd
Street

Hamilton Rehabili-
tation Pgmme-
Registration of
loan on Tax Rolls-
Mr. Geo. McWilliam
102 Tisdale St. S.

The Committee then approved the following recommendation:

That the total outstanding H.A.R.P. Loan for Mr. George McWilliam, 102 Tisdale Street South, in the amount of \$1 019.34 be placed on the tax rolls.

Grants for the
Handicapped,
Mr. & Mrs. Thomas
Allan, 18 Caroga
Court.

The Committee was in receipt of a report from the Director of Community Development dated 1987 March 25 respecting a Private and Confidential Matter involving the Grants for the Handicapped, Mr. & Mrs. Thomas Allan, 18 Caroga Court.

The Committee then approved the following recommendation:

- (a) That a grant and repayable loan in the amount of five thousand dollars (\$5 000) be approved for Mr. & Mrs. Thomas Allan, 18 Caroga Court, for the adaptation of their home for Mrs. Allan's handicap.
- (b) That subject to approval, the lien be registered on Title indicating that a forgivable grant in the amount of two thousand five hundred dollars (\$2 500) be earned over a five (5) year period, and the balance of two thousand five hundred dollars (\$2 500) be repaid to the Corporation of the City of Hamilton at the time of the sale of the property. The interest rate on the repayable portion will be zero (0) percent.

Commercial Facade
Loan Programme
-Mr. Stewart
Millar, 568
Concession St.

The Committee was in receipt of a report from the Director of Community Development dated 1987 March 24 respecting the Commercial Facade Loan Programme.

The Committee then approved the following recommendation:

That a Commercial Facade Loan in the amount of \$4 735 be approved for Mr. Stewart Millar, 568 Concession Street. The interest rate will be 4 1/2%, amortized over 10 years.

Business Improve-
ment Area Levies

The Committee was in receipt of a report from the Acting Secretary of the Finance Committee dated 1987 March 16 indicating that a copy of a report dated 1987 February 26 from the City Treasurer respecting Business Improvement Area Levies which was received by the Finance Committee at its meeting held 1987 March 3 is being referred to the Planning and Development Committee.

The Committee then agreed to table this matter.

Quit Claim Deed-
rear land of Frid
Construction
Company Ltd.

The Committee was in receipt of a report from the Director of Real Estate dated 1987 March 25 respecting a Quit Claim Deed - Rear Land of Frid Construction Company Limited.

The Committee then approved the following recommendation:

- (a) That a Quit Claim Deed be prepared by the City Solicitor releasing all of the City's interest on the land shown as Part 2 on Plan R-2572 prepared by Sidney W. Woods Inc. Surveyor,
- (b) That the Mayor and City Clerk be authorized to execute the said Quit Claim Deed.

Note: Since about 1962, Frid Construction Company Limited has been occupying a parcel of land at the rear of property located at 70 Frid Street. This land extends northerly to the brow of the Chedoke Ravine. However, the brow of the ravine is now approximately 66 feet further north at its maximum distance than the land measurements described in the owner's deed. As a result, Frid Construction have been occupying a triangular parcel of land containing an area of approximately 6.938 square feet that is not referred to in its deed. The said parcel of land is described as Part 2 on Plan R-2572 prepared by Sidney W. Woods Inc. Surveyor.

The land on the north abutting the land in question is partly City of Hamilton land and partly Highway #403 land. The City of Hamilton has paper title to the subject portion of land which has been occupied by the Frid Company for more than 20 years and who, therefore, have secured ownership by means of this occupation.

Frid Construction Company Limited is in the process of selling the rear land at 70 Frid Street and Mr. David Ferguson, solicitor for the owner, has requested a Quit Claim Deed of the City's interest in order to secure title to the occupied portion of City property.

The Committee was in receipt of a report from the Director of Real Estate dated 1987 March 17 respecting the sale of the rear lands of Rymal Road East - Part Lot 17 and Part Lot 10, Plan M-352 - Hamilton Industrial Park No. 3 - B. A. Williams and Edward Cummings.

Sale of the rear lands of Rymal Rd. East-Part Lot 17 and Part Lot 10, Plan M-352

It was moved by Alderman Collins, seconded by Alderman Ross and carried to adopt the following recommendation:

That an Offer to Purchase the lands of The Corporation of the City of Hamilton being composed of rear land off Rymal Road East and having a measurement of 76.22 metres (250.66 feet) more or less by 60.96 metres (200 feet) more or less, subject to a right-of-way over Block 17, Plan M-352 in favour of the Regional Municipality of Hamilton-Wentworth duly executed on March 10, 1987, by the Purchasers, B.A. Williams and Edward Cummings and scheduled for closing on July 27th, 1987, be approved and completed.

Note: The purchase price is \$51,700.00. A deposit cheque in the amount of \$5,170.00 is being held by the City Treasurer pending Council approval.

This transaction is conditional on the following conditions being met:

This transaction shall be closed on or before the 27th day of July, 1987. The closing of this transaction is conditional upon the simultaneous completion of the transaction between B. A. Williams and Edward Cummings and the Regional Municipality of Hamilton-Wentworth concerning the sale of parts 2, 6 and 9 on Plan 62R-5403.

It is understood and agreed that the Vendor, upon completion of this transaction will pay a 5% real estate commission to Re/Max Real Estate (1171 Upper James Street, Hamilton, Ontario, L9C 3B2), whose agent, Mr. Sam Pennetti acted in this matter.

Planning and Development Committee

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This transaction includes special building covenants, agreements and restrictions which are set out as Appendix "K".

Sale of Part 19,
Plan M-227 -
Hamilton Industrial
Park No. 1 -
Nebo Road

The Committee was in receipt of a report from the Director of Real Estate dated 1987 March 20 respecting the sale of Lot 19, Plan M-227 - Hamilton Industrial Park No. 1 - Nebo Road - Elio Marchetti, carrying on business as Expert Boiler Service.

It was moved by Alderman Merling, seconded by Alderman Christopherson and carried to adopt the following recommendation:

That an Offer to Purchase the lands of The Corporation of the City of Hamilton located on Nebo Road duly executed on March 19, 1987 by the Purchaser, Elio Marchetti carrying on business as Expert Boiler Service and scheduled for closing on September 18, 1987, be approved and completed.

Note: The purchase price is \$81,260.00. A deposit cheque in the amount of \$8,126.00 is being held by the City Treasurer pending Council approval.

The property is composed of a parcel of land located on the western limit of Nebo Road having a frontage of 200 feet by a depth of 442.95 feet/441.89 feet and containing an area of 2,0315 acres.

This transaction includes special building covenants, agreements and restrictions which are set out as Appendix "L".

Sale of Part 12,
Plan 62R-6188 -
14 Keefer Court

The Committee was in receipt of a report from the Director of Real Estate dated 1987 March 20 respecting the sale of Part 12, Plan 62R-6188 - 14 Keefer Court - Kenora Industrial Park - Rycott Grocery Limited.

It was moved by Alderman Collins, seconded by Alderman Ross and carried to adopt the following recommendation:

That an Offer to Purchase the land of The Corporation of the City of Hamilton located at 14 Keefer Court duly executed on March 12, 1987 by the Purchasers, Rycott Grocery Limited and scheduled for closing on September 10, 1987, be approved and completed.

Note: The purchase price is \$55,929.00. A deposit cheque in the amount of \$5,592.00 is being held by the City Treasurer pending Council approval.

The property is composed of a parcel of land located on the southern limit of Keefer Court having a frontage of 42.5 metres (139.43 feet) by a depth of 74.661 metres/74.303 metres (244.95 feet/243.77 feet) and containing an area of 3,144m² (.7768 acres), more particularly described as Part 12 on Plan 62R-6188 (14 Keefer Court).

This transaction includes special building covenants, agreements and restrictions which are set out in Appendix "M".

Sale of Parts 3 &
4 - Plan 62R -
6932 - 15 Keefer
Court

The Committee was in receipt of a report from the Director of Real Estate dated 1987 March 24 respecting the sale of Parts 3 and 4 - Plan 62R-6932 - 15 Keefer Court - Clem Vald Construction Limited.

It was moved by Alderman Collins, seconded by Alderman Ross and carried to adopt the following recommendation:

That an Offer to Purchase the lands of The Corporation of the City of Hamilton located on Keefer Court duly executed on March 19, 1987 by the Purchasers, Clem-Vald Construction Limited and scheduled for closing on August 19, 1987, be approved and completed.

Note: The purchase price is \$58,700.00. A deposit cheque in the amount of \$5,870.00 is being held by the City Treasurer pending Council approval.

The property is composed of a parcel of land located on the northerly limit of Keefer Court having a frontage of 40 metres (131.2 feet) by a depth of 83 metres/80.59 metres (272.3 feet/264.4 feet) and containing an area of 3,304.7m² (.816 acres).

It is understood and agreed:

- (a) that the Vendor, upon completion of this transaction, will pay a 5% real estate commission to Dunn Realty Inc., whose agent Mr. Jack Dunn, acted in this matter;
- (b) that this Offer is conditional upon the Purchasers, at their own expense, obtaining satisfactory soil tests prior to the date of closing, to determine the load bearing capabilities of the subject lands, for the construction of the Purchaser's proposed building;
- (c) that the maximum land coverage by buildings is 75%.

This transaction includes special building covenants, agreements and restrictions which are set out in Appendix "N".

The Committee was in receipt of a report from the Director of Real Estate dated 1987 March 25 respecting the sale of property - 15 Woodleigh Avenue - to William and Antonette Biggs.

Sale of property -
15 Woodleigh Ave.

It was moved by Alderman Christopherson, seconded by Alderman Ross and carried to adopt the following recommendation:

- (a) That an Offer to Purchase the property at 15 Woodleigh Avenue executed by William and Antonette Biggs on March 18, 1987 and scheduled for closing on May 28, 1987 be approved and completed.

Note: The purchase price of \$13,000.00 is to be credited to account 0280-02. A \$500.00 deposit cheque is being held by the City Treasurer pending approval of this transaction.

- (b) That the City Treasurer be directed to pay any net profit from this sale (estimated to be \$6,000.00) to Lloyd M. Day and Elaine L. Day, the previous owners of the subject property.

Note: On January 25, 1983, City Council accepted a Quit Claim Deed from Mr. and Mrs. Day which provided that if the City disposed of the property within the next five years, any net profit was to be paid to Mr. and Mrs. Day.

This property has a frontage along the westerly limit of Woodleigh Avenue of 25 feet (7.62 metres) more or less by a depth of 100 feet (30.48 metres) more or less, with the exact area to be determined by a survey.

Planning and Development Committee

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Amendment to Deed of Conveyance - City Sale to Artell Developments Ltd. or its assigns - Parts 9-14, 62R-7820 - 45 Goderich Rd. and 51 & 52 Keefer Court

The Committee was in receipt of a report from the Director of Real Estate dated 1987 March 24 respecting an amendment to Deed of Conveyance - City Sale to Artell Developments Limited or its Assigns - Parts 9-14, 62R-7820 - 45 Goderich Road and 51 and 52 Keefer Court.

It was moved by Alderman Collins, seconded by Alderman Ross and carried to adopt the following recommendation:

- (a) That the City Solicitor be authorized to amend the deeds of conveyance to the Purchaser for Parts 9-14, 62R-7820 in order to grant right-of-ways over the subject parcels as follows:
 - (i) The deed for Parts 9 and 10, 62R-7820 will be subject to a right-of-way over the hatched area shown on the plan and together with a right-of-way over the cross-hatched area on Parts 11-14, 62R-7820.
 - (ii) The deed for Parts 11-14, 62R-7820 will be subject to a right-of-way over the cross-hatched area on said plan and together with a right-of-way over the hatched area on Parts 9 and 10, 62R-7820.
- (b) The Purchasers must prepare the Legal Survey indicating the right-of-way at its own cost.

Residential Enclaves

The Committee was in receipt of correspondence from the Regional Clerk respecting a matter placed for the Finance and Personnel Committee on Residential Enclaves. The Committee agreed to receive this information.

Canadian Institute of Planners 1987 National Conference

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 19 respecting the Canadian Institute of Planners 1987 National Conference to be held at the Toronto Harbour Castle Hilton on 1987 July 5 to 8.

The Committee then approved the following recommendation:

That the Chairman and Vice-Chairman of the Planning and Development Committee, or their designates, be authorized to attend the National Conference of the Canadian Institute of Planners from 1987 July 5-8 in Toronto.

Review of development permit application W/D/86-87/301 to the Niagara Escarpment Commission to demolish an existing single family dwelling at 8 Auchmar Road

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 23 respecting a review of development permit application W/D/86-87/301 to the Niagara Escarpment Commission to demolish an existing single family dwelling located at 8 Auchmar Road.

It was moved by Alderman Merling, seconded by Alderman McCulloch and carried to adopt the following recommendation:

That the Niagara Escarpment Commission be advised that the City of Hamilton is not opposed to the demolition of the single family dwelling at 8 Auchmar Road.

Note: R. Denninger Limited has requested the Niagara Escarpment Commission to grant a permit to demolish the existing frame single family dwelling at 8 Auchmar Road.

The applicant has indicated that the dwelling is of wooden frame construction, built in 1939 and is presently vacant. Furthermore, children as well as others are playing and using the empty structure. He felt that the building in its present condition is dangerous and should be removed as soon as possible.

L.A.C.A.C. has been contacted with regard to the building's historical status and have indicated that it is not listed and is not considered to be of sufficient architectural significance to be recommended for listing by the L.A.C.A.C. Research Sub-Committee.

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 23 respecting an application to the Region for the approval of a plan of condominium, Regional File MO.25CDM-87001, City of Hamilton File No. SA-87-01 to construct 70 apartment units.

The Committee then approved the following recommendation:

That approval be given to application SA-87-01, "Kendale Garden", Ed. Robinson Properties, owner, to establish a draft plan of condominium located at the north side of Limeridge Road and west of West 5th Street subject to the following condition:

- (a) That this approval apply to the plan prepared by MacKay, MacKay and Peters Limited, Ontario Land Surveyors, dated December 17, 1986.

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 23 respecting an application to the Region for the approval of a plan of condominium, Regional File No. 25CDM-87004, City of Hamilton File No. SA-87-04 to Establish 41 condominium units in 7 townhouse buildings.

The Committee then approved the following recommendation:

That approval be given to application SA-87-04 "Pinewood Condominium", Empire Development (Hamilton) Ltd., owner, to establish a draft plan of condominium located west of Upper Paradise Road and north of Novoco Drive subject to the following condition:

- (a) That this approval apply to the plan prepared by Sidney W. Woods Inc. Engineers and Surveyors, dated January 15, 1987, Plan R-2560-D.

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 23 respecting an application for extensions of draft approval, Regional File No. 25T-77033 - Rexford Heights - Phase 2; Regional File No. 25T-79022 - Oakland Park Extension No. 4.

It was moved by Alderman Merling, seconded by Alderman McCulloch and carried to adopt the following recommendation:

That the Region be requested to grant one year extensions to the draft approval for Rexford Heights - Phase 2 Subdivision (Regional File No. 25T-77033) and Oakland Park Extension No. 4 Subdivision (Regional File No. 25T-79022).

Approval of a plan of condominium - Regional File MO.25CDM-87001, City of Hamilton File No. SA-87-01 to construct 70 apartment units

Approval of a plan of condominium, Regional File 25CDM-87004, City of Hamilton File No. SA-87-04 to establish 41 condominium units in 7 townhouse buildings

Application for extensions of draft approval, Regional File - 25T-77033-Rexford Heights - Phase 2; Regional File No. 25T-79022 Oakland Park Extension No.4

Site Plan Control
Applications

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 25 respecting Site Plan Control Applications for the following properties:

- (a) Site Plan Control Application DA-86-82 - Lands on the east side of Upper Wentworth Street, south of Mohawk Road.
- (b) Site Plan Control Application DA-86-84 - Lands at 969 Upper Ottawa Street.
- (c) Site Plan Control Application DA-86-92 - Lands at the north-west corner of Rymal Road East and Rockland Avenue.
- (d) Site Plan Control Application DA-86-105 - Lands at 49 Rymal Road East .
- (e) Site Plan Control Application DA-86-106 - Lands at 425 Melvin Avenue.
- (f) Site Plan Control Application DA-86-107 - Lands at 95 Duke Street.
- (g) Site Plan Control Application DA-86-109 - Lands at 148, 150 and 152 Golden Orchard Drive.
- (h) Site Plan Control Application DA-86-110 - Lands between Caroga Court and Clifton Downs Road.

It was indicated to the Committee that all of these Site Plan Control Applications have been approved by the Chairman of the Planning and Development Committee and the Aldermen of the Ward.

The Committee then agreed to receive this report.

Public Meeting re:
Zoning Applications.

The Committee then moved into its public meeting session for the purpose of hearing zoning applications.

ZA87-11 - 512313
Ontario Limited
(Thomas Moriarity)
owner- 1709 Upper
James Street

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 17 respecting a zoning application 87-11 from 512313 Ontario Limited (Thomas Moriarity), owner, requesting a change in zoning from "B" (Suburban Agriculture and Residential, etc.) District to "HH" (Restricted Community Shopping and Commercial, etc.) District to permit the construction of a commercial building for the sale and storage of published materials, for the property located at No. 1709 Upper James Street.

A report of the circularization was as follows:

353 notices mailed out - 6 in favour - 11 opposed.

Mr. Powell, representing the owner, Thomas Moriarity, appeared before the Committee. He requested that this matter be tabled due to the fact that Mr. Moriarity was unable to attend the meeting.

Following discussion, it was moved by Alderman Merling, seconded by Alderman McCulloch to proceed with this zoning application.

Mr. and Mrs. Jones, 1715 Upper James Street appeared before the Committee in opposition to the change in zoning. They indicated that they do not want to have this area opened to any type of business which would occur with an "HH" zoning.

It was then moved by Alderman Merling, seconded by Alderman McCulloch and carried to adopt the following recommendation:

That Zoning Application 87-11, 512313, Ontario Limited (Thomas Moriarity), owner, requesting a change in zoning from "B" (Suburban Agriculture and Residential, etc.) District to "HH" (Restricted Community Shopping and Commercial, etc.) District to permit the construction of a commercial building for the sale and storage of published materials, for the property located at No. 1709 Upper James Street, as shown on the attached map marked as APPENDIX "A", be denied for the following reasons:

- (a) it is premature pending the preparation of the Allison Neighbourhood Plan in 1988,
- (b) it is premature pending the development of the performance standards for Upper James Street. The Urban Design Guidelines for the Upper James Street Corridor (performance standards) applied to other neighbourhoods to the north established lot frontages, depths and types of commercial uses. It is imperative that these standards be set in place before commercial development can proceed;
- (c) it will set an undesirable precedent for future similar commercial use applications.

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 6 respecting zoning application 87-12, Brian Sweet, owner, respecting a request for a modification to the "D" (Urban Protected Residential - One and Two Family Dwellings, etc.) District to permit six dwelling units within the building instead of the legally permitted four units, for the property located at No. 160 Grant Avenue.

ZA87-12 - 160
Grant Avenue

Mr. Brian Sweet, owner, appeared before the Committee respecting this application.

The report of the circularization was as follows:

394 notices mailed out - 13 in favour - 20 opposed.

The Committee was in receipt of a letter from Mr. Roderick J. Phillips, 223 Stinson Street objecting to the application.

It was then moved by Alderman McCulloch, seconded by Alderman Ross and carried to approve the following recommendation denying the application:

That Zoning Application 87-12, Brian Sweet, owner, requesting a modification to the "D" (Urban Protected Residential - One and Two Family Dwellings, etc.) District to permit six dwelling units within the building instead of the legally permitted four units, for the property located at No. 160 Grant Avenue, as shown on the attached map marked as APPENDIX "B", be denied for the following reasons:

- (a) the use was established illegally.
- (b) only three parking spaces are available, whereas the by-law would require an additional three spaces for a total of six. Such a reduction in parking would place added pressure on on-street parking in the area.
- (c) the six unit multiple dwelling is out of character given the surrounding land uses are primarily one and two family dwellings.

- (d) an approval of this application would set an undesirable precedent for future similar applications.
- (e) it does not comply with the approved Stinson Neighbourhood Plan.

ZA87-14- 1621
Upper Sherman
Avenue

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 11 respecting Zoning Application 87-14, Paletta International Corporation, owner for a change in zoning from "C" (Urban Protected Residential, etc.) District to "G-1" (Designed Shopping Centre) District for property located at No. 1621 Upper Sherman Avenue.

A report of the circularization was as follows:

46 notices mailed out - 7 in favour - 0 opposed.

It was then moved by Alderman Merling, seconded by Alderman Ross and carried to adopt the following recommendation:

That approval be given to Zoning Application 87-14 Paletta International Corporation, owner, for a change in zoning from "C" (Urban Protected Residential, etc.) District to "G-1" (Designed Shopping Centre) District for property located at No. 1621 Upper Sherman Avenue as shown on the attached map marked as APPENDIX "C" on the following basis:

- (a) That the subject lands be rezoned from "C" (Urban Protected Residential, etc.) District to "G-1" (Designed Shopping Centre) District;
- (b) That the City Solicitor be directed to prepare a By-law to amend Zoning By-Law No. 6593 and Zoning District E-38D;
- (c) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning area.

The purpose of the By-Law is to provide for a change in zoning from "C" (Urban Protected Residential, etc.) District to "G-1" (Designed Shopping Centre) District.

The effect of the By-law is to provide for uniform "G-1" (Designed Shopping Centre) District Zoning for the subject lands in conjunction with adjacent lands at the northeast corner of Upper Sherman Avenue and Rymal Road East to permit a comprehensive shopping centre development.

ZA87-13 - South-
west corner of
Christopher Drive
and Upper James
Street

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 12th respecting Zoning Application 87-13, 518374 Ontario Ltd., Angelo Papastamos, prospective owner, requesting a change in zoning from "AA" (Agricultural) District to "B" (Suburban Agriculture and Residential, etc.) District (block1) and to "G" (Neighbourhood Shopping Centre, etc.) District (Block 2) for property located at the south-west corner of Christopher Drive and Upper James Street.

The following people appeared before the Committee with questions on this application:

- (a) Mr. A. Toderi, 23 Christopher Drive
- (b) Mr. & Mrs. Corsini, 33 Christopher Drive
- (c) Mr. & Mrs. Cili, 27 Christopher Drive
- (d) Mr. & Mrs. Hudecki, 38 Christopher Drive

Alderman Ross requested that when this matter come before the Committee as a Site Plan Approval, that the above-noted residents be notified.

It was then moved by Alderman Ross, seconded by Alderman Cooke and carried to adopt the following recommendation:

That approval be given to an amended Zoning Application 87-13, 518374 Ontario Ltd., Angelo Papastasmos, prospective owner, for a change in zoning from "AA" (Agricultural) District to "B" (Suburban Agriculture and Residential, etc.) District (Block 1) and to "G" (Neighbourhood Shopping Centre, etc.) District (Block 2) for property located at the south-west corner of Christopher Drive and Upper James Street, as shown on the attached map marked as APPENDIX "D" on the following basis:

- (a) That the lands described as Block 1 be rezoned from "AA" (Agricultural) District to "B" (Suburban Agriculture and Residential, etc.) District;
- (b) That the lands described as Block 2 be rezoned from "AA" (Agricultural) District to "G" (Neighbourhood Shopping Centre, etc.) District.
- (c) That the City Solicitor be directed to prepare a By-Law to amend Zoning By-Law No. 6593 and Zoning District Map W-9E.
- (d) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

The purpose of the By-Law is to provide for the following changes in zoning for property located at the south-west corner of Christopher Drive and Upper James Street, as shown on the attached map marked as APPENDIX "D"

Block 1 - Change from "AA" (Agricultural) District to "B" (Suburban Agriculture and Residential, etc.) District

Block 2 - Change from "AA" (Agricultural) District to "G" (Neighbourhood Shopping Centre, etc.) District

The effect of the By-Law is to establish the appropriate zoning to permit single-family development on Block 1 and neighbourhood commercial development on Block 2.

The Committee was in receipt of a report from the Planning and Development Department dated 1987 February 26 respecting City Initiative 85-P, for a change in zoning from "D" (Urban Protected Residential, etc.) District (Block 1) and "H" (Community Shopping and Commercial, etc.) District (Block 2) to "G-3" (Public Parking Lots) District, for property located at No. 255 West Avenue North.

City Initiative -
86-P -
255 West Avenue
North

A report of the circularization was given as follows

212 notices sent out - 11 in favour - 5 opposed.

Mrs. Anderson, 224 Wellington Street, appeared before the Committee in opposition to this application. She indicated that she is opposed to demolishing the school, and that there are too many parking lots in the area already. She added that she does not believe the parking lot will be landscaped as indicated by the recommendation. She further added that she feels that the area needs more playgrounds rather than parking.

Mr. Moote, 268 West Avenue North appeared before the Committee questioning what will be happening in this area.

Mr. Frank Gombar, 266 West Avenue spoke to the Committee on the type of parking (grade or level) that will be going into this site.

Mr. Abraham indicated that it will be grade parking. Mr. Gombar requested from the Committee whether there is any proposal for street widening. It was indicated to Mr. Gombar that this is not planned.

Mr. Douglas Morgan, 228 Wellington Street North, appeared before the Committee. He indicated that he was told the parking lot proposal is to assist businesses, and did them in enticing customers to use their stores. Mr. Morgan indicated that he is opposed to this since he feels that people will continue to use the free "off-street" parking rather than paying at a lot.

Mr. Moote added to the Committee, that he feels that a crosswalk should be put in from the new parking area to the hospital.

Letters of submission in opposition to this application were received and submitted to the Committee from Mr & Mrs. Covey, 222 Wellington Street North and Mr. & Mrs. Anderson, 224 Wellington Street North

Following discussion on this matter, it was moved by Alderman Hinkley, seconded by Alderman Cooke and carried to approve the following recommendation:

That approval be given to City Initiative 85-P, for a change in zoning from "D" (Urban Protected Residential, etc.) District (Block 1) and "H" (Community Shopping and Commercial, etc.) District (Block 2) to "G-3" (Public Parking Lots) District, for property located at No. 255 West Avenue North, as shown on the attached plan marked as APPENDIX "E" on the following basis:

- (a) That the lands described as Block 1 be rezoned from "D" (Urban Protected Residential One and Two-Family Dwellings, etc.) District to "G-3" (Public Parking Lots) District;
- (b) That the lands described as Block 2 be rezoned from "H" (Community Shopping and Commercial, etc.) District to "G-3" (Public Parking Lots) District;
- (c) That the "G-3" (Public Parking Lots) District regulations as contained in Section 13C of Zoning By-Law No. 6593 applicable to the lands described as Blocks 1 and 2 be modified to include the following variance as a special requirement:
 - (i) That vehicular access to West Avenue North be prohibited from Blocks 1 and 2.
- (d) That the amending By-Law be added to Section 19B of Zoning By-Law No. 6593 as Schedule S-1018 and that the subject lands on Zoning District Map E-12 be notated S-1018;
- (e) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-12;
- (f) That the Landsdale Neighbourhood Plan be amended by redesignating the subject property from "Civic and Institutional" to a "Commercial" designation.
- (g) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

The purpose of the By-Law is to provide for the following changes in zoning:

- Block 1 - Change from "D" (Urban Protected Residential - One and Two-Family Dwellings, etc.) District to "G-3" (Public Parking Lots) District;

Planning and Development Committee

Wednesday, 1987 April 1

Block 2 - Change from "H" (Community Shopping and Commercial, etc.) District to "G-3" (Public Parking Lots) District.

The effect of the By-Law is to permit redevelopment of the former school site (West Avenue Public School) for a public parking lot.

In addition, the By-Law will prohibit vehicular access to West Avenue North from Blocks 1 and 2.

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 19 respecting a review of the "M-15" Districts regarding Permitted Uses.

Following discussion on this matter, it was moved by Alderman Ross, seconded by Alderman Cooke and carried to adopt the following recommendation:

That the Planning Department be directed to review the "M-15" District to determine the appropriateness of uses currently permitted within the District.

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 23 respecting the Terms of Reference for a High Density Residential Development Study.

Mr. David Godley, Planning and Development Department, presented an overview of the background to this study and answered questions from the Committee.

Alderman Hinkley indicated that there are many studies that have been requested and asked for information on what stage those studies are at. He further requested that a listing of projects be submitted to the Planning and Development Committee with a time table of when they are going ahead. He added that he wants to see where this High Density Residential Development Study fits in with the other studies that are being worked on.

Following considerable discussion, it was then moved by Alderman Merling, seconded by Alderman Hinkley and carried to table this matter for two weeks and that a listing and ranking of other projects be submitted to the Committee for their consideration when they review this matter at the next meeting. Opposed - Alderman Cooke, Alderman Christopher, Alderman Smith.

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 18 respecting the proposed plan for the Carpenter Neighbourhood.

Mr. David Godley of the Planning and Development Department outlined the proposals for this area.

Mr. Barker of Delcan appeared before the Committee representing Berskin Property Development Limited and their 53 acres of land in the Carpenter Neighbourhood. Mr. Barker indicated that they are concerned about Option C and that his company prefers the original proposal. He added that 38 lots would be on a strip adjacent to Rymal Road and feels that it is not in keeping with the community. He added that they want to preserve the entrance to the proposed village. Mr. Barker further added that Option C presents no cost to the City but considerable cost to the developer.

Review of the
"M-15" Districts
re: Permitted
Uses

High Density
Residential
Development Study

Proposed Plan -
Carpenter
Neighbourhood

Miss Rosemary Mayhew, 589 Rymal Road West, appeared before the Committee in representation for the neighbourhood. She indicated that the neighbours prefer the original proposal or Option A. She added that the residents are concerned with the increased traffic flow and that they prefer a straightening of Upper Paradise. She added that a private laneway would preserve the established maple trees on the land.

General discussion ensued on this matter, and it was then moved by Alderman Ross, seconded by Alderman Cooke and carried to adopt the following recommendation:

That the attached map (Plan 1) (APPENDIX "F") and written policies (APPENDIX "G") be adopted by City Council as a guide to future development in the Carpenter Neighbourhood.

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 24 respecting Site Plan Control Application DA-87-10 - Cayuga Materials and Construction Company Limited, owners of the lands on the west side of Upper Ottawa Street, south of Rymal Road East.

Mr. Jim Lamont, a representative of the Homeowner's Association addressed the Committee. He submitted a letter and submission dated 1987 April 19 respecting the proposed approval of the hot asphalt plan at Upper Ottawa Street and Rymal Road.

Mr. Andress, 1085 Rymal Road East addressed the Committee on his concerns in this matter. The Committee was in receipt of his letter of objection which a petition was attached which was received by the Mayor's Office 1987 March 4 and forwarded to the Committee in their information package of the agenda. Mr. Andress indicated that he is concerned with the pollution that this plant would cause and does not feel that promised trees on the buffer areas will grow in the conditions they would be exposed to.

Mr. Steinoff, 1610 Upper Ottawa Street addressed the Committee. He indicated that the Ministry of the Environment seems to be concerned at increased pollution emissions and he feels that pollution devices are only as good as they are maintained.

Some discussion ensued on the "M-15" District conditions which allows for outside storage.

Mr. Lamont asked the Committee why the residents weren't advised before purchasing their properties, that the area was zoned "M-15" and what uses that would encompass.

Mrs. Goulet, 551 Templemead Drive addressed the Committee in opposition to approval of this Site Plan. She indicated that trees are not sufficient as a buffer for the residential area, and as she is expecting a child is concerned about the health of her children.

The owner of 46 Templemead Drive appeared before the Committee in opposition to this Site Plan and requested why the Realtor never advised them that the vacant lands would be used for an asphalt plant.

Mr. Larry Collins, 434 Templemead Drive indicated to the Committee that he is opposed to the Site Plan and indicated that he was not advised by his Realtor that this land would be used as an asphalt plant but rather was told it was light industrial and non-pollutant use.

Alderman Smith indicated to the Committee that he has asked the Environment Ministry to hold a hearing on this matter.

Site Plan Control
Application DA-
87-10 - Cayuga
Materials &
Construction Co.

Planning and Development Committee

Wednesday, 1987 April 1

At this point in the meeting, representatives of Cayuga Materials and Construction Company Limited, addressed the Committee on their application for Site Plan approval.

Mr. John MacDonald, Vice-President of Cayuga Materials and Construction Company Limited indicated that they are in agreement with the modifications made by the Planning Department to their plans.

The Committee then discussed the various aspects that they could take in regard to this matter.

Mr. Peter Lampman of the Building Department advised that even though the Committee does not approve the Site Plan that the Building Department is obliged to issue a building permit, although building cannot be started.

Considerable discussion ensued on what action could be taken by the Planning and Development Committee in this matter. It was then moved by Alderman Cooke, seconded by Alderman Christopherson and carried to table this Site Plan Control Application for a period of 30 days.

At this point in the meeting, the Committee adjourned for a short period and reconvened at 6:45 p.m.

The following members were present: Alderman J. Smith, Chairman
Alderman D. Ross, Vice-Chairman
Mayor Robert M. Morrow
Alderman D. Christopherson
Alderman B. Hinkley
Alderman S. Collins
Alderman T. Cooke

Also Present: Alderman T. Murray
Mr. L. Sage, Chief Administrative Officer
Alderman V. Agro
Mr. J. J. Schatz, Acting Secretary

The Committee was in receipt of a report from the Planning and Development Department dated 1987 March 25 respecting Site Plan Control Application DA-87-16 by the Cadillac Fairview Corporation Limited, perspective owner of the lands at the south-west corner of York Boulevard and James Street North for redevelopment of a commercial mall.

Site Plan Control
Application
DA-87-16 -
Cadillac Fairview
Corp. Ltd.

Mayor Morrow indicated that he had met with the various people involved in this project to date, and the matter of connections has not been resolved, although he feels that it can be.

The Committee then moved in camera to discuss various aspects of this application with respect to negotiations.

Following considerable discussion in camera on this matter, the Committee then moved into public session.

Planning and Development Committee

Wednesday, 1987 April 1

It was then moved by Alderman Ross, seconded by Alderman Hinkley and carried that approval for Site Plan Control Application DA-87-16 be tabled for two weeks.

There being no further business, the meeting then adjourned.

Taken as read and approved,

S. K. Reeder, Acting Secretary
Planning & Development Committee

ALDERMAN J. SMITH, CHAIRMAN
PLANNING AND DEVELOPMENT COMMITTEE

Adjournment



THE CORPORATION OF THE CITY OF HAMILTON
City Hall, 71 Main Street West, Hamilton, Ontario L8N 3T4

A (i)

1987 April 24

Outerbridge
P.O. Box 60, Station B
678 Main Street East
Hamilton, Ontario
L8L 7V7

Attention: Mr. John L. Jaskula, Q.C.

Dear Mr. Jaskula:

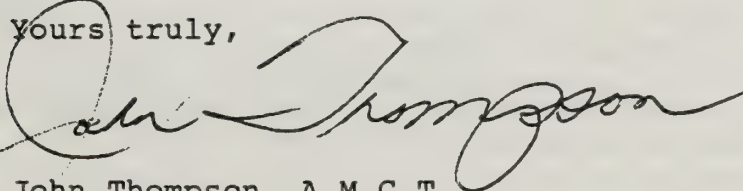
Re: Jockey Club Tavern Limited and Ottawa Street North
Business Improvement Area

This refers to your letters of January 29 and March 31, 1987 regarding your client's request for an exemption from the subject Business Improvement Area.

Please accept this letter as confirmation of arrangements which have been made for you to appear before the Planning and Development Committee on Wednesday, May 13, 1987 at 2:00 o'clock p.m. in Room 233, City Hall to formally submit your request.

I trust these arrangements are satisfactory, however, would you please advise me if such is not the case.

Yours truly,


John Thompson, A.M.C.T.
Secretary
Planning and Development Committee

JT:kjk

cc: Mr. Ed. Kowalski, Director, Community Development
Mrs. Susan Reeder, Acting Secretary, Planning and
Development Committee

Outerbridge

Barristers and Solicitors

Telephone 416-547-0504
P.O. Box 60, Station B
678 Main Street East
Hamilton, Canada
L8L 7V7

Ian W. Outerbridge, Q.C.
John L. Jaskula, Q.C.
Christopher B. Sherk, B.Sc., M.B.A., LL.B.
Jeff C. Teal, LL.B.

March 31, 1987

Mr. John Thompson
Legislative Assistant
Secretary to the
Planning and Development Committee
Corporation of the
City of Hamilton
City Hall
Hamilton, Ontario
L8N 3T4

Dear Sir:

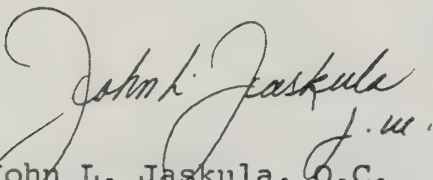
RE: The Jockey Club Tavern Limited and the
Ottawa Street North Business Improvement Area
Our File Number H86-195

We asked to appear before the Committee in order to ask it to consider exempting the Jockey Club Tavern Limited from the special levy imposed as a result of the creation of the Ottawa Street North Business Improvement Area.

We spoke briefly about a date for an appearance before the Committee.

I would appreciate it if you would contact the writer at your convenience to discuss a mutually satisfactory date.

Yours very truly


John L. Jaskula, Q.C.
JLJ/jw

cc: Jockey Club Tavern Limited

FEB 2 1987

Outerbridge

Barristers and Solicitors

Telephone 416-547-0504
P.O. Box 60, Station B
678 Main Street East
Hamilton, Canada
L8L 7V7

Ian W. Outerbridge, Q.C.
John L. Jaskula, Q.C.
Christopher B. Sherk, B.Sc., M.B.A., LL.B.
Audrius A. Stonkus, B.A., LL.B.
Jeff C. Teal, LL.B.

January 29, 1987

Mr. John Thompson
Secretary
Planning and Development
Committee
The Corporation of the
City of Hamilton
City Hall
Hamilton, Ontario
L8N 3T4

Dear Sir:

RE: Jockey Club Tavern Limited ("JCTL")
and the Ottawa Street North
Business Improvement Area ("BIA")
Our File Number H86-195

We are the solicitors for JCTL.

Our client, through its President, Wally Mack, has from the time that it learned that it was part of the BIA, objected to its inclusion.

Our client is located at 1091 Barton Street East. The building, on the north side of Barton Street, is considerably east of Ottawa Street.

Our client has received no benefit from the existence of the BIA. Its customer base is not retail. In fact, its customer and its business activity does not correspond with the usual business hours of the retail merchants along Ottawa Street North.

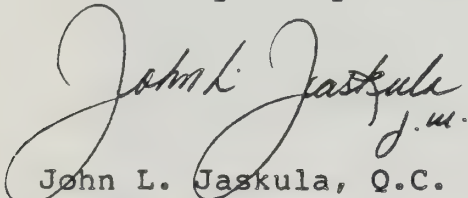
For the aforesaid reasons, and other reasons, our client believes that it should not have been included in the BIA. We would like to appear before the Committee to ask it to consider an application to remove the JCTL from the BIA or, in the

Mr. John Thompson
January 29, 1987
Page 2

alternative, since the JCTL receives no benefit, that it be excluded from payment of the special levy as permitted by section 217 (18).

If, in your opinion, or that of the Committee, the Committee is not the appropriate Committee before which to appear, please let us know before which Committee we should appear.

Yours very truly



John L. Jaskula, Q.C.
JLJ/jw

cc: Jockey Club Tavern Limited

FOR ACTION

FROM E. W. Kowalski, Director
Community Development

DATE 1987 April 23

TO Planning & Development Committee

Refer To File No. 800-0014.10

Attention Of _____

Your File No. _____

SUBJECT

Jockey Club Tavern Limited and the Ottawa Street North
Business Improvement Area (B.I.A.)

RECOMMENDATION

That, the request of the Jockey Club Tavern, 1091 Barton
Street East to be deleted from the Ottawa Street Business
Improvement Area, designated by By-law #86-31 not be
approved (attached as Schedule 'A').

E. Kowalski

BACKGROUND

W. Mack of the Jockey Club Tavern Limited has requested the
City of Hamilton to rescind the by-law designating the Ottawa
Street North B.I.A. and pass a by-law designating the Ottawa
Street North B.I.A. with new boundaries which do not include
the Jockey Club Tavern Limited. Subsequently, W. Mack has
requested an appearance before the Planning and Development
Committee to state his case.

With respect to the subject, according to the Municipal Act
- Section 217 (attached), all steps were followed correctly
to designate the B.I.A. (by-law attached). The initial
general meeting held to determine approval by the business
merchants of the formation of a B.I.A. was held at the
Jockey Club Tavern. The Board of Management for Ottawa
Street B.I.A. (Municipal Act - Section 217, Sub-section 6),
also followed the appropriate steps to establish it.
(By-law attached)

With reference to eliminating the Jockey Club Tavern from the B.I.A., in the opinion of the Ministry of Municipal Affairs, and by definition of the Municipal Act, Section 217, there is no allowance for reducing the B.I.A. boundaries without bringing the whole B.I.A. designation into jeopardy.
(Municipal Act, Section 217, Sub-section 26)

The original circularization used to notify the merchants in the area of the notice of intent to pass a by-law designating the improvement area includes the Jockey Club Tavern at 1090 Barton Street East. (attached) At that time, W. Mack did not object to the formation of the B.I.A. A chronology outlining information and history pertinent to this subject is attached.

cc: K. Rouff, City Solicitor, City Solicitor's Department

ATTENTION: P. M. Eker, Solicitor - Legislation Council

217.—(1) The council of a local municipality may pass by-laws designating an area as an improvement area and may by by-law establish for any such area so designated a Board of Management to which may be entrusted, subject to such limitations as the by-law may provide, the improvement, beautification and maintenance of municipally owned lands, buildings and structures in the area, beyond such improvement, beautification and maintenance as is provided at the expense of the municipality at large, and the promotion of the area as a business or shopping area.

Improvement
area may be
designated
by by-law

(2) Before passing a by-law designating an improvement area, notice of the intention of the council to pass the by-law shall be sent by prepaid mail to every person occupying or using land for the purpose of or in connection with any business in the area who is shown in the last revised assessment roll of the municipality as being assessed for business assessment within the meaning of the *Assessment Act*.

Notice of
intention

R.S.O. 1980,
c. 31

(3) Unless a petition objecting to the passing of the by-law referred to in subsection (2), signed by at least one-third of the persons entitled to notice as set out in subsection (2), representing at least one-third of the assessed value of the lands in the area that is used as the basis for computing business assessment, is received by the clerk within two

Petition
objecting
to by-law

months next following the latest day of the mailing of any such notices, the council may pass the by-law, but, if such a petition is received by the clerk within such time, the council shall not pass the by-law.

(4) Subject to subsection (3), where a petition objecting to the passing of a by-law referred to in subsection (2) signed by one or more persons entitled to notice as set out in that subsection is received by the clerk of the municipality within thirty days next following the latest day of the mailing of any of such notices, the by-law shall not come into force without the approval of the Municipal Board.

Approval
of
O.M.B.

(5) The sufficiency of the petition described in this section shall be determined by the clerk and his determination shall be evidenced by his certificate and when so evidenced is final and conclusive.

Sufficiency
of petition
determined
by clerk

(6) A Board of Management established under subsection (1) is a body corporate and shall consist of such number of members appointed by council as the council considers advisable, at least one of whom shall be a member of the council and the remaining members shall be individuals assessed for business assessment in respect of land in the area or nominees of such individuals or of corporations so assessed.

Board of
Management

(7) Each member shall hold office from the time of his appointment until the expiration of the term of the council that appointed him, provided he continues to be qualified, as provided in subsection (6).

Term of
office

(8) Where a vacancy occurs from any cause, the council shall appoint a person qualified as set out in subsection (5) to be a member, who shall hold office for the remainder of the term for which his predecessor was appointed.

Vacancy

(9) The members shall hold office until their successors are appointed and are eligible for reappointment on the expiration of their term of office.

Term

(10) A Board of Management established under subsection (1) shall submit to the council its estimates for the current year at the time and in the form prescribed by council and may make requisitions upon the council for all sums of money required to carry out its powers and duties, but nothing herein limits the council of its authority with reference to rejecting such estimates in whole or in part or providing the money for the purposes of the Board of Management and when money is so provided by the council the treasurer shall, upon

Estimates

the certificate of the Board of Management, pay out such money to the Board of Management.

(11) The Board of Management shall not expend any moneys not included in the estimates approved by the council or in a reserve fund established under section 165. Expenditure of moneys

(12) The Board of Management shall not borrow money and, without the prior approval of the council, it may not incur any indebtedness extending beyond the current year. Borrowing prohibited, restrictions on incurring indebtedness

(13) Section 149 of this Act and sections 64 and 65 of the *Ontario Municipal Board Act* apply to the giving of an approval of indebtedness by a council under subsection (12) as though the giving of the approval were the incurring of the indebtedness by the municipality. Assent of electors, etc. R.S.O. 1920, c. 347

(14) On or before the 1st day of March in each year, a Board of Management shall submit its annual report for the preceding year to council, including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement. Annual report

(15) The municipal auditor shall be the auditor of each such Board of Management and all books, documents, transactions, minutes and accounts of a Board of Management shall, at all times, be open to his inspection. Auditor

(16) Upon the repeal of a by-law establishing a Board of Management, the Board ceases to exist and its undertakings, assets and liabilities shall be assumed by the municipality. Dissolution of Board

(17) Subject to such maximum and minimum charges as the council may specify by by-law, the council shall in each year levy a special charge upon persons in the area assessed for business assessment sufficient to provide a sum equal to the sum of money provided for the purposes of the Board of Management for that area, together with interest thereon at such rate as is required to repay any interest payable by the municipality on the whole or any part of such sum, which shall be borne and paid by such persons in the proportion that the assessed value of the real property that is used as the basis for computing the business assessment of each of such persons bears to the assessed value of all the real property in the area used as the basis for computing business assessment. Special charge

(18) Notwithstanding subsection (17), the council may by by-law provide that the sum required for the purposes mentioned therein shall be levied as a special charge upon and shall be borne and paid by persons in the area assessed for business assessment who in the opinion of the council derive special benefit from the establishment of the area, and the sum chargeable to such persons shall be equitably apportioned among them in accordance with the benefits that, in the opinion of the council, accrue to them from the establishment of the area. Special charge where special benefit derived

(19) Before the council passes a by-law specifying maximum and minimum charges under subsection (17) or a by-law under subsection (18), notice of the proposed by-law shall be, Notice

(a) published at least once a week for four successive weeks, and the by-law shall not be passed until after the expiry or fourteen days following the day on which the notice was last published; or

(b) given in the same manner as a notice of a proposed by-law under subsection (2), and the by-law shall not be passed until the expiry of thirty days next following the latest day of the mailing of any such notices.

(20) Any person who would be liable to a special charge levied in accordance with a by-law proposed to be passed by the council of a municipality under subsection (17) specifying maximum or minimum charges or under subsection (18) may object to the proposed by-law by filing written notice of the objection with the clerk of the municipality before the expiry of the period mentioned in clause (19) (a) or (b), as the case may be. Objections

(21) Where an objection to a proposed by-law is made under subsection (20), the proposed by-law shall not come into force without the approval of the Municipal Board. Approval of M.B.

(22) Subsections (19), (20) and (21) do not apply to a by-law passed under subsection (17) or (18) to comply with an order of the Municipal Board under subsection (31).

(23) Notice of a proposed by-law required under subsection (19) may be given in the same notice as notice of a proposed by-law under subsection (2). Separate notice not required

(24) Notwithstanding anything in subsection (17) or (18), where moneys borrowed by the municipality are provided in any year by the council for the purposes of the Board of Management and where only a portion of such moneys are required to be repaid by the municipality to the lender in that year or in any subsequent year, only the portion of the moneys required to be repaid to the lender in any such year together with any interest repayable in that year in respect of the total of such moneys shall be included in the sum to be provided in that year by the levy under subsection (17) or (18). Provision

(25) Any charge imposed under subsection (17) or (18) may be collected in the same manner and with the same remedies as provided by this Act for the collection of taxes upon business assessment. Manner of collection

(26) The council of a local municipality may pass by-laws for designating as an improvement area an area that includes all of an existing improvement area designated under subsection (1). Designation of enlarged improvement area

(27) Subsections (2), (3), (4) and (5) apply with necessary modifications to the passing of a by-law under subsection (26). Application of subs. (2-5)

(28) A by-law passed under subsection (26) shall not come into force until the 1st day of January next after its passing, or, where the approval of the Municipal Board is required before such by-law may come into force, until the day specified by the Municipal Board. When by-law comes into effect

(29) Where a by-law passed under subsection (26) comes into effect, the existing improvement area mentioned in that subsection is dissolved, but the Board of Management established for that improvement area is continued and shall be the Board of Management for the new improvement area designated under the by-law. Board of Management continued

(30) The provisions of this section that apply to a Board of Management under subsection (1) or to a council or municipal auditor in respect of such a Board apply with necessary modifications to a Board of Management continued under subsection (29) and to the council of a local municipality in respect of such a Board over which it has jurisdiction and to the auditor of the municipality in respect of such Board. Application

(31) Where approval of the Municipal Board of a by-law passed under this section is required, the Municipal Board as a condition of giving its approval may by its order impose such restrictions, limitations and conditions with respect to such matter as may be necessary or expedient. Approval of O.M.B.

(32) A by-law designating an improvement area may be repealed to take effect upon the 31st day of December in the year in which it is passed. Repeal of by-law

(33) Notwithstanding anything in this section, subsections (2), (3) and (4) do not apply to, Non-application of subs. (2-4)

(a) a by-law passed under subsection (1) or (26) to comply with an order of the Municipal Board under subsection (31); or

(b) a by-law passed under subsection (32).

(34) The Minister and a local municipality may enter into agreements for the provision of loans or grants to the municipality on such terms or conditions as are agreed upon for the purpose of the improvement, beautification and maintenance of municipally owned lands, buildings and structures in the municipality or in any defined area thereof and for the purposes mentioned in paragraph 55 of section 208. Minister and municipality agreements
R.S.G. 1980, c. 307, s. 217.

12/10/85

Bill No. C-142

The Corporation of the City of Hamilton

BY-LAW NO. 86 - 31

To Designate:

An Improvement Area

GENERALLY, COVERING OTTAWA STREET NORTH BETWEEN
MAIN STREET EAST AND EXTENDING TO AN AREA NORTH OF BARTON STREET EAST

WHEREAS subsection 217(1) of The Municipal Act,
R.S.O. 1980, Chapter 302, provides that the council may
pass a by-law designating an area as an improvement area;

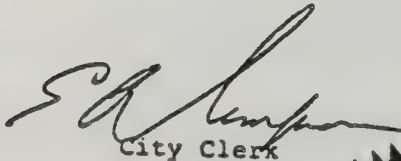
AND WHEREAS no objections were received pursu-
ant to a Notice of Intention to Designate the improvement
area hereinafter referred to, sent on September 13, 1985
in accordance with subsection 217(2) of the said Act;

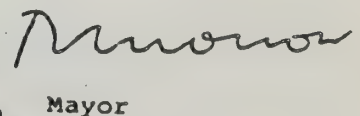
AND WHEREAS it is intended to pass a by-law
designating the said area as an improvement area in ac-
cordance with subsection 217(1) of the said Act.

NOW THEREFORE the Council of The Corporation
of the City of Hamilton enacts, as follows:

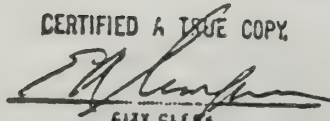
1. The area more particularly described in Schedule
"A" and shown on Schedule "B" is hereby designated as an
improvement area.

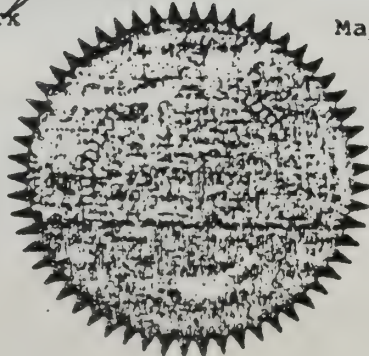
PASSED this 10th day of December A.D. 1985.


City Clerk


Mayor

CERTIFIED A TRUE COPY.


CITY CLERK



In the City of Hamilton in the Regional Municipality of Hamilton-Wentworth in the Province of Ontario, described as follows:

Commencing at the south east angle of Lot 5, Concession 2 in the geographic Township of Barton.

Thence northerly along the eastern limit of said Lot 5, being the western limit of the road allowance between Lots 4 and 5 to a point distant two hundred and ten feet (210') measured southerly along the last mentioned limit from the southern limit of Dunsmure Road.

Thence westerly parallel with the southern limit of Dunsmure Road a distance of one hundred and thirty point three three feet (130.33') to a point.

Thence northerly parallel with the western limit of the road allowance between Lots 4 and 5, being the western limit of Ottawa Street to a point distant ninety feet (90') measured southerly from the southern limit of Dunsmure Road.

Thence easterly parallel with the southern limit of Dunsmure Road a distance of fifty feet (50') to a point.

Thence northerly parallel with the western limit of Ottawa Street to its intersection with the southern limit of Dunsmure Road.

Thence easterly along the southern limit of Dunsmure Road a distance of twenty-seven feet (27') more or less to its intersection with the southerly production of a line drawn parallel to and at a distance of fifty three point three three feet (53.33') west of Ottawa Street.

Thence to and along the last mentioned parallel line to its intersection with the southern limit of Lot 367, according to Kensington Survey, Registered Plan 545.

Thence westerly along the southern limit of said Lot 367 to the south westerly angle thereof.

Thence northerly along the western limit of Lots 367 to 384, Registered Plan 545 to the north westerly angle of Lot 384.

Thence easterly along the northern limit of Lot 384, being the southern limit of Roxborough Avenue a distance of fifty-two feet (52') more or less to its intersection with the southerly production of a line drawn parallel to and at sixty-five feet (65') west of the western limit of Ottawa Street.

Thence to and along the last mentioned parallel line a distance of ninety feet (90') more or less to the southern limit of Lot 314, according to Crown Point Survey Addition, Registered Plan 404.

Thence westerly along the southern limit of said Lot 314 to the south westerly angle thereof.

Thence northerly along the western limit of Lots 314 to 302 and Lot D, Registered Plan 404 to the north westerly angle of Lot D.

Thence northerly to the southwest angle of Lot 276 according to Crown Point Survey, Registered Plan 378.

Thence northerly along the western limit of Lot 276 to the north west angle thereof.

Thence northerly to the south west angle of Lot 217 according to Maple Leaf Park Survey, Registered Plan 463.

Thence north west and northerly along the western limit of Lots 217 to 197, Registered Plan 463 to a point distant sixty-five feet (65') measured southerly along the western limit of Lots 195 to 197, Registered Plan 463 from the southern limit of Campbell Avenue.

Thence easterly parallel with the southern limit of Campbell Avenue a distance of thirty-one feet (31') to a point.

Thence northerly to a point in the southern limit of said Campbell Avenue distant eighty-eight point three three feet (88.33') measured westerly along the southern limit of Campbell Avenue from the western limit of Ottawa Street.

Thence north westerly to the south west angle of Lot 194, Registered Plan 463.

Thence northerly along the western limit of Lots 194 to 180, Registered Plan 463 and its northerly production to a point distant one hundred sixty two feet (162.0') measured southerly from the southern limit of Barton as widened by City of Hamilton By-law No. 75-2 registered as Instrument No. 362101 A.B.

Thence easterly parallel with the southern limit of Barton Street a distance of thirty four feet (34') to the west face of the westerly wall of a building fronting on Ottawa Street.

Thence northerly along the west face of the said westerly wall and its northerly production to its intersection with the northern limit of Barton Street.

Thence easterly along the northern limit of Barton Street to a point distant fifty-three feet (53') measured westerly from the western limit of Ottawa Street.

Thence northerly parallel with the western limit of Ottawa Street one hundred feet (100') to a point.

Thence easterly parallel with the northern limit of Barton Street a distance of fifty-three feet (53') more or less to the western limit of Ottawa Street.

- 4 -

Thence easterly to a point in the eastern limit of Ottawa Street distant one hundred twenty-nine point five six feet (129.56') measured northerly along the said eastern limit of Ottawa Street from the northern limit of Barton Street.

Thence easterly parallel with the northern limit of Barton Street a distance of two hundred twelve point five nine feet (212.59') to a point.

Thence southerly parallel with the eastern limit of Ottawa Street a distance of one hundred twenty-nine point five-six feet (129.56') more or less to the northern limit of Barton Street.

Thence southwesterly to a point in the southern limit of Barton Street distant thirty point five feet (30.5') measured easterly along the south limit of Barton Street from the eastern limit of Ottawa Street.

Thence southerly parallel with the easterly limit of Ottawa Street and its southerly production to its intersection with the southern limit of Argyle Street.

Thence easterly along the southern limit of Argyle Street to a point distant one hundred feet (100') measured easterly along the southern limit of Argyle Street from the eastern limit of Ottawa Street, being the north east angle of Lot 1 in Block D, Registered Plan 395.

Thence southerly along the eastern limit of Lots 1 to 15 in the said Block D to the southeast angle thereof.

Thence southerly to the north east angle of Lot 1, Block 'J', Registered Plan 395, being a point in the southern limit of Campbell Avenue.

Thence southerly along the eastern limit of Lots 1, 2 and 3 to the south east corner of Lot 3, Block 'J', Registered Plan No. 395, being a point in the northern limit of Union Park Survey, Registered Plan NO. 297.

Thence westerly along the said northern limit of Union Park Survey a distance of four feet (4') more or less to a point distant twenty-five feet (25') measured westerly along the northern limit of Lot 1, Union Park Survey, from the northeast angle of Lot 1.

Thence southerly parallel with the eastern limit of Lots 1 to 4, Registered Plan 297 to a point in the northern limit of Edinburgh Avenue.

Thence southerly to a point in the southern limit of Edinburgh Avenue, being the northern limit of Lot 79, Registered Plan 297 distant twenty-nine point five feet (29.5') measured westerly from the northeast corner of said Lot 79.

Thence southerly parallel with the eastern limit of Lots 79 to 86, Registered Plan No. 297, and its southerly production a distance of two hundred fifty feet (250') more or less to the southern limit of Britannia Avenue, being the northern limit of Lot 107, Registered Plan 297.

Thence easterly along the northern limit of Lots 107, 115 and 116 Registered Plan 297 to the north east corner of Lot 116.

Thence southerly along the eastern limit of Lots 116 and 133, Registered Plan 297 to its intersection with the easterly production of the northern limit of Lot 113, Registered Plan 297.

Thence westerly along the northern limit of Lot 113 to its intersection with a line drawn parallel to and at a distance of fifty three point one-six feet (53.16') measured easterly of the eastern limit of Ottawa Street.

Thence southerly along the last mentioned parallel line and its southerly production a distance of one hundred feet (100') more or less to a point in the southern limit of Cannon Street being the northern limit of Lot 291 Registered Plan 297.

Thence easterly along the northern limit of Lot 291 to the northeast angle thereof.

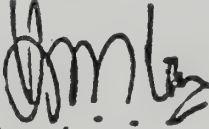
Thence southerly along the eastern limit of Lots 291 to 294, Registered Plan No. 297, and its southerly production to its intersection with the northern limit of Roxborough Avenue.

Thence southerly to a point in the southern limit of Roxborough Avenue, being the northeast angle of Lot 39, Registered Plan 497.

Thence southerly along the eastern limit of Lots 39 to 1, Registered Plan No. 496 to the southeast angle of said Lot 1.

Thence south westerly along the southeastern limit of said Lot 1 to the south west angle thereof, being a point in the eastern limit of Ottawa Street.

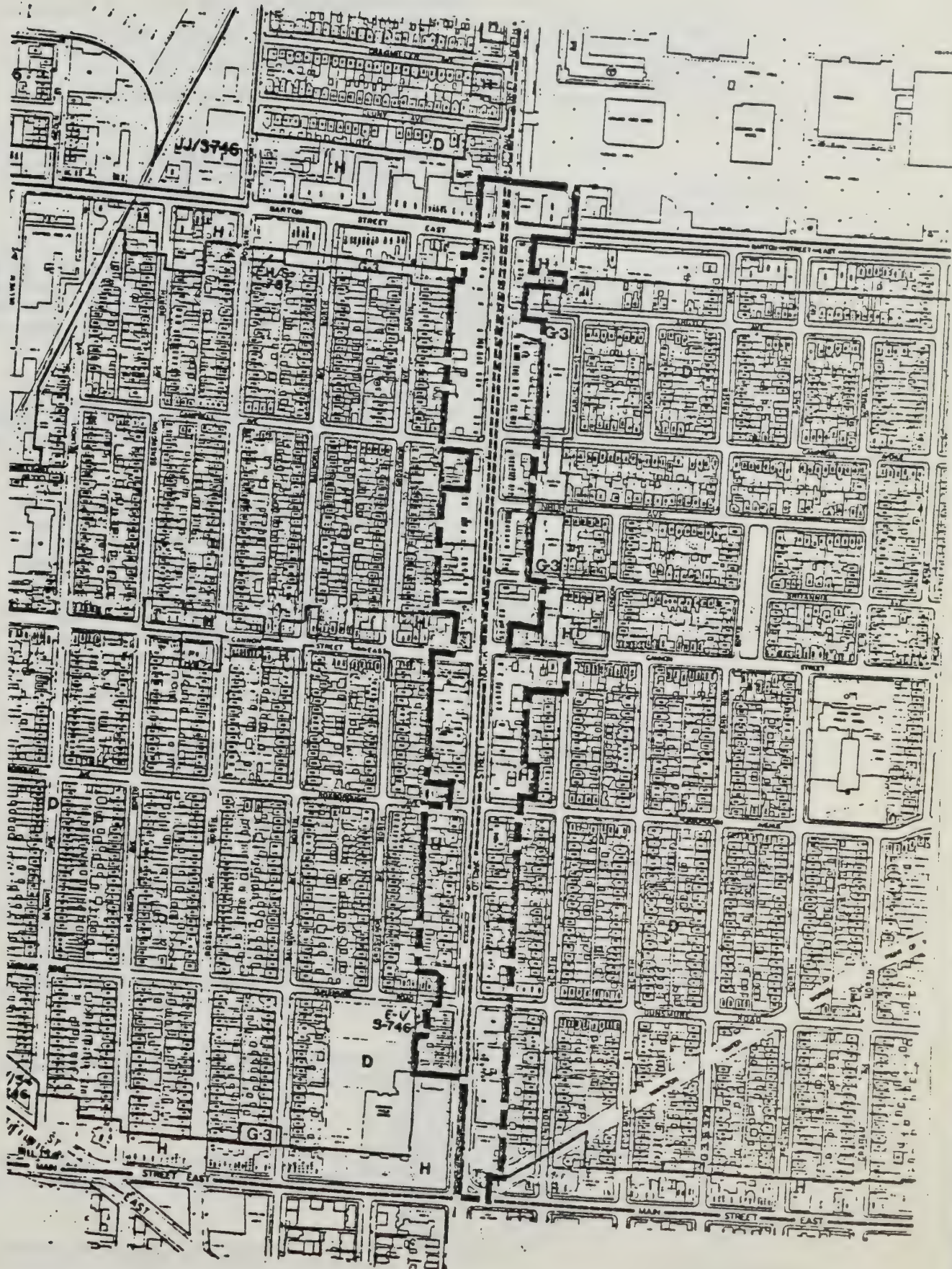
Thence westerly to the point of commencement.


Ontario Land Surveyor

dated at Hamilton
this 19th day of July, 1985

This is Schedule "A" to By-law No. 86-31, passed on the
10th day of December A.D. 1985.

Schedule "B"



OTTAWA STREET NORTH BUSINESS IMPROVEMENT AREA
 is Schedule "B" to By-law No. 86-31, passed on the day 10th
 December 1985

The Corporation of the City of Hamilton

BY-LAW NO. 86- 99

To Establish:

A Board of Management

For:

THE OTTAWA STREET NORTH BUSINESS IMPROVEMENT AREA
DESIGNATED BY BY-LAW NO. 86-31

WHEREAS By-law No. 86-31, passed on the 10th day of December, 1985, designated as an improvement area the area aforesaid and more particularly described in Schedule "A" and shown on Schedule "B" to the said by-law;

AND WHEREAS subsection 1 of section 217 of The Municipal Act, R.S.O. 1980, Chapter 302 provides that where an improvement area is designated, the council,

(1) ...may by by-law establish for any such area so designated a Board of Management to which may be entrusted, subject to such limitations as the by-law may provide, the improvement, beautification and maintenance of municipally owned lands, buildings and structures in the area, beyond such improvement, beautification and maintenance as it provided at the expense of the municipality at large, and the promotion of the area as a business or shopping area;

AND WHEREAS subsection 6 of the said section provides that,

(6) A Board of Management established under subsection (1) is a body corporate and shall consist of such number of members appointed by council as the council considers advisable, at least one of whom shall be a member of the council and the remaining members shall be individuals assessed for business assessment in respect of land in the area or nominees of such individuals or of corporations so assessed.

NOW THEREFORE the Council of The Corporation of the City of Hamilton enacts as follows:

1. A Board of Management for the improvement area designated by By-law No. 86-31 is hereby established.

2. The Board of Management shall be composed of,

(a) members of council who are the Ward Aldermen in which the improvement area is located and whose names are set out in Schedule "A" hereto annexed;
and

- (b) individuals who are assessed for business assessment in respect of land in the area or nominees of such individuals or of corporations so assessed and whose names are set out in Schedule "B" hereto annexed.

2. (1) The Board of Management is hereby entrusted, subject to the limitations set out in subsection (2), with,

- (a) the improvement, beautification and maintenance of municipally owned lands, buildings and structures in the improvement area, beyond such improvement, beautification and maintenance as is provided at the expense of The Corporation of the City of Hamilton at large; and
- (b) the promotion of the improvement area as a business or shopping area.

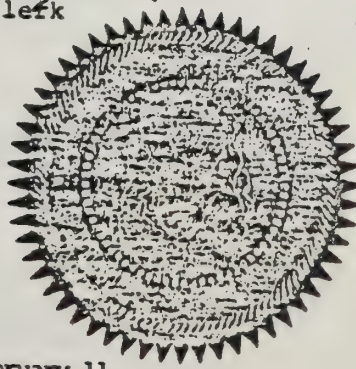
(2) Any proposal to construct, repair, rehabilitate or otherwise improve municipally owned land and/or buildings within the said area shall be subject to the prior approval of the Director, Department of Community Development.

3. Annexed hereto and marked Schedule "C" are the provisions of The Municipal Act relating to the Board of Management.

PASSED this 11th day of MARCH A.D. 1986.

SA [Signature]
City Clerk

[Signature]
Mayor



(1986) 4 R.P.D.C. 15, February 11

J-15

CERTIFIED TRUE COPY
[Signature]
Deputy City Clerk

SCHEDULE "A"

To By-law No. 86-99

1. Alderman Pat Valeriano.
2. Alderman Geraldine Copps.
3. Alderman Brian Hinkley.
4. Alderman David Christopherson.

SCHEDULE "B"

To By-law No. 86-99

Ted Culshaw	-	A & B Catering
Saul Eisenberg	-	Liberty House Furniture
Lee Higgins	-	Hamilton Appliance Centre
Edith Desmarais	-	Fred Gregory Florists
Mike Cole	-	Tri-Colour Photo
Tom Easterbrook	-	Kent's Hardware
Don Ferrel	-	Giant Tiger
John Gut	-	Textile Bargain Centre
Steve Konstantinidis	-	Nadel's Furs
Trent Richer	-	Images by J. J. Richer
Chuck Weber	-	Montreal Textile
Gerald Carrey	-	Howard's Flower Shoppe

DOMINION OF CANADA)
Province of Ontario)
Judicial District of)
Hamilton-Wentworth)
TO WIT:)

IN THE MATTER OF A NOTICE OF Intention by
the Corporation of The City of Hamilton
to pass a By-law to Designate an
Improvement Area pursuant to Section
217(1) of The Municipal Act, R.S.O. 1980
Ch. 302.

I, EDWARD ALLAN SIMPSON of the City of Hamilton in the Regional
Municipality of Hamilton-Wentworth DO SOLEMNLY DECLARE:-

1. That I am the Clerk of the Corporation of The City
of Hamilton and as such have knowledge of the matters
herein referred to.
2. That on the 13th day of September 1985 I did send by
pre-paid first-class mail to every person occupying or
using land for the purpose of or in connection with any
business in the Improvement Area who is shown in the last
revised Assessment Roll of the City of Hamilton as being
assessed for business assessment within the meaning of The
Assessment Act, at the addresses shown therein as set out
in Exhibit "A" hereto annexed, the following:-
 - (a) A copy of the Notice of Intention to pass a By-law
to Designate an Improvement Area, hereto annexed
and marked Exhibit "B"
3. To this date no objection or petition against the passing
of the proposed by-law has been filed by any person in
the Office of the Clerk or to the best of my knowledge
and belief with any other employee, agent, or officer
of the Municipality.

AND I MAKE THIS Solemn Declaration conscientiously believing it to
be true and knowing that it is of the same force and effect as if
made under oath and by virtue of "The Canada Evidence Act".

DECLARED before me at the)
City of Hamilton)
in the Judicial District)
of Hamilton-Wentworth)
this Fourteenth)
day of November A.D. 1985)

JOSEPH JOHN SCHATZ, A COMMISSIONER, ETC.,
JUDICIAL DISTRICT OF HAMILTON-WENTWORTH,
FOR THE CORPORATION OF THE CITY OF HAMILTON
EXPIRES - MARCH 24, 1986

DATE - 05. 1985

THE CORPORATION OF THE CITY OF HAMILTON

PAGE -

FILE -

CIRCULARIZATION MASTER LIST

TYPE -

SERIAL -

ADDRESS / ROLL NO. MISC. PROPERTY DESCRIPTION

CIRCULARIZED TO

STATUS

NO

00009	1078 BARTON ST E 040285009700200 ASMTB- 1313	R205 UC-COM	ZC-H	LU-56	M A TRUMAN LTD REAL ESTATE 6 GENERAL INSURANCE 329 OTTAWA ST N HAMILTON 25. ONT	TENANT	L3H 329
00010	1078 BARTON ST E 040285009700260 ASMTB- 1579	R212 UC-COM	ZC-H	LU-56	MONTGALY DAVID MICHAEL 1078 BARTON ST E HAMILTON 25. ONT	TENANT	L3L 355
00011	1080 BARTON ST E 040285009700100 ASMTB- 9130	UC-COM	ZC-H	LU-56	490711 ONTARIO INC 10 A OTTAWA ST N HAMILTON ONT	TENANT	L3H 328
00012	1091 BARTON ST E 040315003700040 ASMTB- 4560	UC-COM	ZC-H	LU-94	GOSLING CHRISTINE T/A KORMER KIOSK 40 ARGYLE AVE HAMILTON ONT	TENANT	L3H 257
00013	1091 BARTON ST E 040315003700020 ASMTB- 167201	UC-COM	ZC-H	LU-94	JOCKEY CLUB TAVERN LTD 1091 BARTON ST E HAMILTON. ONT	TENANT	L3H 2V2
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00015	2 OTTAWA ST N 040311011200350 ASMTB- 5021	1STR UC-COM	ZC-H	LU-94	AGRESTA'S ITALIAN KITCHEN INC C/O FRANK AGRESTA 289 EASTDALE BLVD STONEY CREEK ONT	TENANT	L3E 3P4

- 4 -
SCHEDULE "C"

To

By-law No. 86-99

(Section 3)

The Municipal Act, R.S.O. 1980, Chapter 302, Section 217

Term of Office

(7) Each member shall hold office from the time of his appointment until the expiration of the term of the council that appointed him, provided he continues to be qualified, as provided by subsection (6).

Vacancy

(8) Where a vacancy occurs from any cause, the council shall appoint a person qualified as set out in subsection (6) to be a member, who shall hold office for the remainder of the term for which his predecessor was appointed.

Term

(9) The members shall hold office until their successors are appointed and are eligible for reappointment on the expiration of their term of office.

Estimates

(10) A Board of Management established under subsection (1) shall submit to the council its estimates for the current year at the time and in the form prescribed by council and may make requisition upon the council for all sums of money required to carry out its powers and duties, but nothing herein divests the council of its authority with reference to rejecting such estimates in whole or in part or providing the money for the purposes of the Board of Management and when money is so provided by the council the treasurer shall, upon the certificate of the Board of Management, pay out such money to the Board of Management.

**Expenditure
of moneys**

(11) The Board of Management shall not expend any moneys not included in the estimates approved by the council or in a reserve fund established under section 165.

**Borrowing pro-
hibited restric-
tions on incur-
ring indebtedness**

(12) The Board of Management shall not borrow money and, without the prior approval of the council, it may not incur any indebtedness extending beyond the current year.

**Assent of electors,
etc.
R.S.O. 1980,
c. 347**

(13) Section 149 of this Act and sections 64 and 65 of the Ontario Municipal Board Act apply to the giving of an approval of indebtedness by a council under subsection (12) as though the giving of the approval were the incurring of the indebtedness by the municipality.

Annual Report

(14) On or before the 1st day of March in each year, a Board of Management shall submit its annual report for the preceding year to council, including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement.

Auditor

(15) The municipal auditor shall be the auditor of each such Board of Management and all books, documents, transactions, minutes and accounts of a Board of Management shall at all times, be open to his inspection.

**Dissolution
of Board**

(16) Upon the repeal of a by-law establishing a Board of Management, the Board ceases to exist and its undertakings, assets and liabilities shall be assumed by the municipality.

MEMORANDUM

DEPARTMENT OF COMMUNITY DEVELOPMENT

P. O. BOX 2040
HAMILTON, ONTARIO
L8N 3T4

DATE: 1987 April 13

MEMO TO: File

FROM: S. Renshaw

SUBJECT: Chronology Ottawa St. B.I.A.;
Reference to Wally Mack

Aug. 27 1985 24th Report of P & D; request to adopt a by-law designating B.I.A. be approved and that the City Solicitor be authorized and directed to prepare and submit to City Council a by-law following appropriate circularization procedures (attached).

Nov. 14 1985 Statutory declaration relating to circularization of "Notice of intention to designate an Improvement Area - Ottawa St. N. (Attachments: Circularization Master list, "Notice of Intention," and Boundaries.

Dec. 10 1985 City Council passed by-law designating Ottawa St. Association as a B.I.A.

Mar. 20 1986 Letter from Community Development to Outerbridge Barristers & Solicitors (W. Mack's legal representative) outlining aforementioned items (attached).

June 30 1986 Request from Outerbridge Barristers & Solicitors to have an amending by-law passed deleting the Jockey Club (W. Mack's establishment) from the B.I.A. (attached).

July 15 1986 Letter from Community Development to Outerbridge Barristers & Solicitors explaining their previous request would entail the rescinding of the existing by-law designating the entire area and any variance in the levy resulting from a change in the by-law would take effect Dec. 31

July 15 1986 of year in which it is passed thus 1986 levy must still be paid.

July 17 1986 Letter from Outerbridge stating they will contact Mr. P. Eker, City Solicitors Office to determine from him the procedure to be taken for a rescission of the by-law and an immediate passage of a new by-law creating a reduced B.I.A. area.

July 22 1986 Memo to Mayor R. Morrow from Community Development (Treasury) outlining previous items for clarification purposes.

Nov. 24 1986 Memo to Alderman Copps from Mr. Matthews (Treasury) outlining levies in arrears by W. Mack (Jockey Club) and his account being sued by the issuance of a writ through the County Court.

Dec. 09 1986 Memo from D. Goodman, Treasury, stating that W. Mack's account has gone to a collection agency.

Dec. 24 1986 Request from Outerbridge to City Council to pass a by-law removing the B.I.A. designation with a petition of 39 merchants, against the B.I.A., attached.

Jan. 29 1987 Request from Outerbridge to P & D to remove Mr. Mack's property from the B.I.A. boundaries.

Jan. 29 1987 Request from Outerbridge to the City Clerk for the by-law for the Board of Management and any other by-laws, reports, etc. dealing with the Ottawa St. B.I.A.

Feb. 05 1987 Information to P & D regarding the correct steps taken to form the B.I.A. (Ottawa St.).

Feb. 06 1987 Request from Outerbridge to Community Development for reports or information pertaining to the B.I.A.'s 1986 budget, a list of merchants in the area, the 1986 Annual Report and any decisions of Council with respect to the Ottawa St. B.I.A.

Feb. 23 1987 Reply from Community Development to J. Jaskula, Outerbridge, with respect to his letter of February 06.

File
Page 3
1987 April 13

- March 02 1987 Letter from Outerbridge to Community Development requesting information pertaining to the merchant list and their addresses in the B.I.A., the Annual Report and the 1987 B.I.A. budget estimates.
- March 31 1987 Letter from Outerbridge to P & D requesting a date to appear before the committee to exempt the Jockey Club from the Ottawa Street B.I.A.
- April 06 1987 Request from J. Thompson regarding Mr. Jaskula's letter of 1987 March 31.

S. Lenshaw
Community Renewal
Officer

SR:sm
Attach.

B

F O R I N F O R M A T I O N

FROM Mr. E. W. Kowalski, Director
Community Development Department **DATE** 1987 May 07

TO Planning and Development Committee **Refer To File No.** 800-0602.3

Attention Of _____

Your File No. _____

SUBJECT

Phase III of the Downtown Hamilton Action Plan; Visual Conflict of Lighting Pole and Overhanging Sign; Mrs. M. Evel, Arbor Florist, 10 John Street North.

BACKGROUND

For the information of the Committee members, Arbor Florists at 10 John Street North, is located within the boundaries of the Phase III Streetscape Improvements. The contractor hired to carry out the scope of work was Delta Ready Mix.

Mrs. Evel has previously been in contact with the Department of Community Development, stating that a newly installed light fixture in front of the florist shop was conflicting with her overhead sign. The conflicting fixture was removed immediately. Similarly, the Downtown Promenade banner was recently removed to reduce the visual obstruction.

Investigation of the conflict by the Transportation Department has revealed that Arbor Florist does not have an encroachment agreement with the Region as required under the Streets By-law.

There are many situations within the downtown core where poles and luminaires are located in close proximity to store signage. Positioning of poles is complicated by H.S.R., traffic, parking sign and lighting requirements. To adjust all of these pole locations would have a substantial financial impact on the city.

To date, the physical conflict of the luminaire against the sign and the visual conflict between the banner and the sign have been removed. The Department of Community Development/Downtown Hamilton Action Plan Co-ordinating Committee recommends that no further action be taken in this regard.

3a(i)

F O R A C T I O N

FROM P. Kuppe DATE 1987 May 6
TO J. Thompson Refer to File No. _____
Attention Of _____
Your File No. _____

SUBJECT

Demolition

RECOMMENDATION

That the Building Commissioner be authorized to issue a demolition permit for the demolition of a residential building as outlined below.

BACKGROUND

1. 10 Dorothy Street

(0822g)

BUILDING DEPARTMENT


DEMOLITION APPLICATIONS

CATEGORY "A" - PROPOSED USE OF

LAND IS PERMITTED BY PRESENT ZONING

DATE: 1987 May 6

ITEM	ADDRESS	PRESENT USE	PROPOSED USE	LOT SIZE	ZONE	RECOMMENDATION
1.	10 Dorothy Street	S.F.D.	S.F.D.	50 X 138.480	"C"	It is recommended that the Committee approve demolition.


PETER C. LAMPMAN, P. ENG.,
DIRECTOR OF PLAN EXAMINATION

3a(ii)

F O R A C T I O N

FROM P. Kuppe DATE 1987 May 6
TO J. Thompson Refer to File No. _____
Attention Of _____
Your File No. _____

SUBJECT

Demolition

RECOMMENDATION

It is recommended that the Committee table this application pending comments from LACAC.

BACKGROUND

1. 2774 King Street East

(0822g)

BUILDING DEPARTMENT

DEMOLITION APPLICATIONS

CATEGORY "A" - PROPOSED USE OF

LAND IS PERMITTED BY PRESENT ZONING

DATE: 1987 May 6

ITEM	ADDRESS	PRESENT USE	PROPOSED USE	LOT SIZE	ZONE	RECOMMENDATION
1.	2774 King Street East	S.F.D.	Commercial Plaza	112 X 139	G/S-955	It is recommended that the Committee table this application. (See attached background memo)

PETER C. LAMPMAN, P. ENG.,
DIRECTOR OF PLAN EXAMINATION

PLANNING AND DEVELOPMENT COMMITTEE

2774 KING STREET EAST

An application for demolition was made May 2, 1986 and was put on the Planning and Development Committee agenda for May 14, 1986. The application was tabled pending comments from LACAC and was again presented on the Planning and Development Committee agenda January 14, 1987. The following recommendations were made at that time:

- (a) That approval be given to the "Intent to Designate" the property at 2774 King Street East as a structure of historical and architectural value pursuant to the provisions of the Ontario Heritage Act, 1983.
- (b) That the City Solicitor be authorized and directed to take appropriate action to have this property designated pursuant to the provisions of the Ontario Heritage Act, 1983.
- (c) That the application for the demolition of the property at 2774 King Street East be DENIED.

As the result of a tie vote and in accordance with Council's policy, the above recommendations were forwarded to Council for consideration. The above recommendations were approved at City Council meeting of January 27, 1987.

The owner of the above property reapplied for a demolition permit on April 24, 1987. The property is designated under By-law 87-108. Therefore it is recommended that the Committee table this application pending comments from LACAC.

(0822g)

3b.

FOR INFORMATION

FROM Mr. Paul Kuppe, Building Commissioner **DATE** May 7th, 1987
TO Planning and Development Committee **Refer To File No.** _____
Attention Of Brian D. Allick
Your File No. _____

SUBJECT

City of Hamilton By-Law 84-35
To Provide for "Maintaining Land in a Clean and Clear Condition"

BACKGROUND

The above By-Law which was used extensively for the cleaning and clearing of yards in the City of Hamilton, was successfully challenged on July 23rd, 1986.

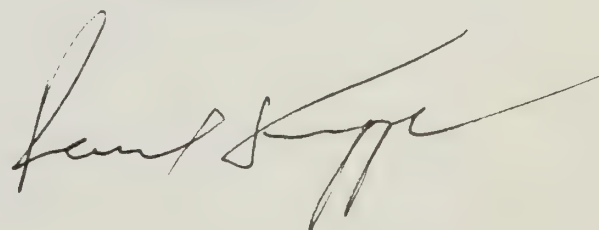
This challenge resulted in two sections of the By-Law being ruled invalid by the Supreme Court of Ontario.

Because of the implication of this decision, City Council authorized an appeal to the Supreme Court of Ontario, Court of Appeal.

At a hearing held on April 8th, 1987 before the Supreme Court of Ontario, Court of Appeal, overturned the earlier decision and allowed the appeal.

By-Law 84-35 is therefore now intact and has stood the challenge of the courts in the manner in which it is used by this Department.

There are presently 3 outstanding court cases which will now be proceeded with and we will now continue to use the By-Law in the resolution of complaints.



MEMORANDUM • CITY OF HAMILTON

TO : Chairman and Members
of the Planning & Development Committee YOUR FILE:
Att: Mrs. S.K. Reeder, Acting Secretary

FROM : K. A. Rouff OUR FILE : 100-1.358
City Solicitor

SUBJECT : City Appeal to the Court of DATE : May 1, 1987
Appeal - Judicial Review
By-law 84-35, on waste in yards -
Edward Allen, 81 Francis Street

This is to advise you that late yesterday evening, our legal counsel advised our Mr. P. Hooker that the City's appeal from the July, 1986 decision of Mr. Justice Fitzpatrick has been successful, in that the Court of Appeal allowed our appeal with costs, both at the review level and also at the appellate level.


K. A. Rouff
City Solicitor

KAR:hk

MEMORANDUM • CITY OF HAMILTON

Chairman and Members
of the Planning & Development Committee.
TO Attention: Mrs. S. K. Reeder, YOUR FILE:
Acting Secretary.

MAY - 7 1987

FROM : Philip R. A. Hooker, OUR FILE : 100-1.358
City Solicitor's Office.

SUBJECT : City Appeal to Court of Appeal DATE : May 6, 1987
- Judicial Review - By-law 84-35,
on waste in yards - Edward Allen,
81 Francis Street

Further to Mr. Rouff's letter of May 1, 1987 herein,
enclosed please find a copy of the April 30, 1987 decision of
the Court of Appeal for your records.

PRAH:mk

Encl.

Philip R. A. Hooker

Philip R. A. Hooker,
for K. A. Rouff,
City Solicitor.

SUPREME COURT OF ONTARIO

COURT OF APPEAL

MACKINNON A.C.J.O., DUBIN AND FINLAYSON JJ.A.

IN THE MATTER OF the Municipal
Act, R.S.O. 1980, c.302;

AND IN THE MATTER OF the Judicial
Review Procedure Act, R.S.O. 1980, c. 224

B E T W E E N:)	
)	
EDWARD ALLEN)	<u>Bryan Finlay, Q.C., Philip</u>
)	<u>R.A. Hooker and J. Gregory</u>
Applicant)	<u>Richards</u> for the appellant
(Respondent in Appeal))	
)	
- and -)	<u>Manfred Rudolph</u> for the
)	respondent
THE CORPORATION OF THE CITY)	
OF HAMILTON)	
)	
Respondent)	
(Appellant))	
)	<u>Heard:</u> April 8, 1987

MACKINNON A.C.J.O.:

The respondent, Edward Allen, was twice convicted of being in breach of the City of Hamilton Waste Materials By-law (now By-law 84-35) for having what was described as a garbage dump in the backyard of his residence. After his second conviction the appellant City demanded that he clear the yard or the City would do so and recover the cost of doing the work from him in accordance with the provisions of the By-law.

The respondent failed or refused to clear the yard and the City passed a further By-law, No. 85-85 (whether necessary or not), authorizing and directing the Building Commissioner to remove all domestic and industrial waste from the respondent's lands. It also directed that the expense of removing the waste be added to the collector's roll to be collected in the same way as municipal taxes. Pursuant to the By-laws the respondent's yard was cleared by the appellant.

Subsequently, the respondent applied for judicial review of the two By-laws and Mr. Justice Fitzpatrick quashed By-law 85-85 and two sections of the Waste Materials By-law 84-35, on the ground that the By-laws were not authorized by the Municipal Act, R.S.O. 1980, c.302. In an obiter dictum he also declared that the clean up of the yard by the City was an unauthorized "seizure" of the respondent's personal property and a breach of s.8 of the Canadian Charter of Rights and Freedoms.

The City now appeals arguing that By-law 84-35 was clearly authorized by the Municipal Act and that s.8 of the Charter is totally irrelevant to the facts of this case. While not supporting in their entirety the reasons of the hearing judge, counsel for the respondent submitted that the judge was right in his conclusions.

HISTORY OF THE RELEVANT EVENTS AND ACTS

The acts and activities relevant to this dispute may be chronicled shortly, as follows:

The respondent first leased 81 Francis Street in Hamilton, from Donald Legere in January 1979. He is still the occupant of the premises which consist of a fully detached single family dwelling with a back yard. He used and continues to use the back yard for the "storage" of what he calls "goods and materials". It was this material that the City classified as "waste".

On July 31st, 1979 the City, by zoning by-law, changed the zoning of certain lands in Hamilton from heavy industrial to urban protected residential, one and two family dwellings. The new By-law covered 81 Francis Street. On January 28th, 1980, the City Building Department, under By-law 68-360 (the predecessor By-law to By-law 84-35) issued an order to comply to owner Donald Legere. On April 15th, 1980, a further order to comply was issued to Legere. On April 17th, 1980 an order to comply was addressed to the occupant, Edward Allen.

On July 11th, 1980, Allen was convicted of violating City By-law 68-360 and sentence was suspended. An order to

comply was again issued on April 14th, 1981 to Allen with copy to the owner, Legere. On August 12th, 1982, an order to comply was addressed to Legere with copy to Allen. On November 3rd, 1982, the City's Building Department advised Allen, by zoning verification certificate, that 81 Francis Street was zoned residential. At no time did Allen or Legere apply for a legal non-conforming use to permit any non-residential use of the property.

On November 11th, 1982, the sixth order to comply was issued for these premises addressed to Legere with a copy to Allen.

On February 14th, 1984, By-law 68-360 was repealed and By-law 84-35 was passed dealing with waste materials and the maintenance of clean conditions on land in the city. This was the By-law under which the City acted, sections of which the hearing judge struck down, and to which I shall refer later at greater length.

On August 31st, 1984, an order to comply under the new By-law was issued to Allen. Subsequently proceedings were taken against him under the By-law and Provincial Offences Act, R.S.O. 1980, c.400 and on November 23rd, 1984, he was convicted of violating City By-law 84-35. Allen did not appeal his

conviction but only the sentence. This appeal was dismissed on October 2nd, 1985.

The learned Provincial Offences judge put the sentencing off until January 18th, 1985 to permit the respondent "to better himself or his position in court". Nothing was done by the respondent to clear the premises and he was sentenced to a \$1,000 fine.

Between the date of sentencing and March 12th, 1985, inspections of the property were made by the Building Department and they revealed no change. As a result, the Building Commissioner recommended to the City Council Planning and Development Committee that the land be cleared of waste. This recommendation was accepted and on April 30th, 1985, City Council passed By-law 85-85 authorizing, as stated, the clearing of domestic and industrial waste from 81 Francis Street.

On May 23rd, 1985, a copy of By-law 85-85 was sent by registered letter to Allen and he was advised that the land would be cleared of industrial waste by the City with the cost of the clearance to be added to the property taxes.

In May and June correspondence took place between the City's representative and Allen and his lawyer. Allen continued

to refuse to do anything about clearing his land. On June 19th, Legere and Allen were advised by letter that the clearance of the land would commence in the first week of July, and on July 10th the land was cleared by the City. The waste removed, some with the use of a bulldozer, filled a disposal truck box with a volume of approximately 50 cubic yards. Articles which were not waste were left on the premises.

From the affidavit of Paul Joseph Kuppe and the transcript of proceedings, as well as from photographs of 81 Francis Street, it can be seen that the respondent's back yard could, indeed, be characterized as a "garbage dump", which attracted vermin as well as the complaints of neighbours. The waste material included the following: concrete rubble, concrete blocks, tires, a mattress, a wood deck, a chassis from an automobile, an engine and other car parts, a hood from an automobile, a baby crib, some plastic pipes, a van, two truck caps, metal containers, metal boxes, bricks, bedspreads, wood, a chair, metal screening, an automobile grill, hoses, stacked metal, metal pipes, bed springs and duct work. Many of the articles had, apparently, been there for a considerable period of time.

SUBMISSIONS AND CONCLUSIONS

It should be noted that the submissions made on behalf of the respondent, Allen, to the Court below and to this Court were not made in the Provincial Offences Court. Counsel for the City argued that the submissions now made could have been made to the Provincial Offences Court and that the matter was, accordingly, res judicata. Although res judicata may apply, in view of the way in which I have approached the problem I have not considered it necessary to review that submission.

The Waste Materials By-law No. 84-35 in its preamble states as follows:

WHEREAS section 210 of The Municipal Act, R.S.O. 1980, Chapter 302, provides as follows:

210 74. For requiring and regulating the filling up, draining, cleaning, clearing of any grounds, yard and vacant lots and the altering, relaying or repairing of private drains.

76. For prohibiting the throwing, placing or depositing of refuse or debris on private property or on property of the municipality or any local board thereof without authority from the owner or occupant of such property.

77. For making any other regulations for sewage or drainage that may be considered necessary for sanitary purposes.

129. For prohibiting, or regulating and inspecting the use of any land or structures within the municipality or

any defined area or areas thereof for dumping or disposing of garbage, refuse, or domestic or industrial waste of any kind.

(a) A by-law under this paragraph,

(i) may establish a schedule of fees chargeable upon inspection of such regulated land or structures,

(ii) may require the owners, lessees or occupants of such land or structures, at the expense of the owners, lessees or occupants, to cease using such land or structures for such purposes, or to cover over any garbage, refuse, or domestic or industrial waste in any prescribed manner, whether or not such land or structures were so used before the passing of the by-law,

(iii) may define industrial or domestic waste.

The City Council, in s-ss.1(c) and 1(d) of the By-law, defined "domestic waste" and "industrial waste". The word "waste material" is defined in s-s.1(k). It was not seriously argued that what the respondent had on his property did not fall within those extensive definitions. It was submitted that they were really articles relating to the respondent's business. However, in the letter of May 31st, 1985 which the respondent wrote in reply to a letter of the Building Commissioner of May 23rd advising him that the City would be calling for tenders to clear the premises of all waste at the respondent's expense, he did not deny it was waste but stated his activities were the same as

before the zoning was changed and concluded with the sentence "you are hereby notified that to remove anything from the premises of 81 Francis Street will be met with serious consequences".

Sections 5(1).and 9(1) of By-law 84-35, which were the specific sections of the By-law struck down by Mr. Justice Fitzpatrick as being enacted without statutory authority, read:

5(1) Except as provided in section 3 and in subsection 4, every owner, lessee or occupant shall keep his land free and clear of all garbage, refuse or domestic or industrial waste of any kind.

. . . .

9(1) Where the owner, lessee or occupant is in default of doing the matter or thing required to be done under this by-law the commissioner may

(a) fill up, drain, clean or clear up the grounds, yard or vacant land;

(b) repair the private drain or alter or relay the private drain;

(c) remove refuse or debris;

(d) provide for the sanitary disposal of sewage and drainage;

(e) remove garbage, refuse or domestic or industrial waste;

(f) cover over, screen, shield or enclose domestic or industrial waste;

(g) remove used motor vehicles stored for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal.

. . .

(3) The city shall recover the expense in doing a matter or thing referred to in subsection 1 by action, or in like manner as municipal taxes.

With the quashing of these sections, By-law 85-85 automatically fell with them, although the judge stated that if that By-law were within the legislative power of the City he would have quashed it "for the failure to give notice".

The learned judge was of the view that the words of the By-law must be "strictly construed" and he concluded that none of the sections of the Municipal Act supported the By-law. It should be noted that paragraphs 74, 76 and 77 of s.210 of the Municipal Act referred to in the preamble of the By-law fall under the statutory heading of "Health, Sanitation and Safety". Paragraph 129 of s.210 falls under the heading "Nuisances, Signs, etc.".

In my view it is not necessary to resort to the headings as there is no ambiguity in the wording of the sections and paragraphs under consideration. In cases of obscurity or ambiguity headings can be looked to to discern the intent of the framers of the Act: The Law Society of Upper Canada v. Skapinker, [1984] 1 S.C.R. 357 at 370-377. The remedial nature and purpose of the legislation and the By-law enacted under it is

clear. This view is strengthened by reference to the headings and a restricted and narrow interpretation of the legislation and By-law should not be adopted. Such an interpretation would destroy or greatly limit the effective functioning of the legislation and By-law.

While the By-law, dealing as it does in part with public health, could be said to be authorized by the clear words of paragraph 74, in my opinion, paragraph 129 of s.210 of the Municipal Act is sufficient to give legislative authority to the City to enact the By-law and the sections under attack.

In quoting from this paragraph the judge below omitted the underlined portion:

A by-law under this paragraph ... may require the owners ... at the expense of the owners ... to cease using such land ... for such purposes, or to cover over any ... domestic or industrial waste in any prescribed manner.

By necessary implication the underlined words make it clear that the City is authorized to require an owner to incur the expense of clearing his land of waste. The judge however concluded, despite the heading "Nuisance" for that part of the Act, that paragraph 129 did not authorize by-laws that required owners "to keep their land free and clear of domestic or industrial waste of any kind".

Section 325 of the Municipal Act, to which no reference was made, buttresses the City's position so far as its claim to the right to clear the land and recover the expense of such clearing is concerned:

325. Where a council has authority to direct or require by by-law or otherwise that any matter or thing be done, the council may by the same or by another by-law direct that, in default of its being done by the person directed or required to do it, such matter or thing shall be done at his expense, and the corporation may recover the expense incurred in doing it by action, or the same may be recovered in like manner as municipal taxes, or the council may provide that the expense incurred by it, with interest, shall be payable by such person in annual instalments not exceeding ten years and may, without obtaining the assent of the electors, borrow money to cover such expense by the issue of debentures of the corporation payable in not more than ten years.

The judge, in holding that paragraph 74 (of s.210) did not support the By-law, referred to the fact that in April, 1974, the City passed By-law 74-74, a properties standard by-law, under the authority of the Planning Act, R.S.O. 1970, c.349, to prescribe standards for the maintenance and occupancy of property. He noted that s.19(1) of By-law 74-74 provided that "every yard ... shall be kept free from litter, debris, salvage, refuse". He was of the view that the City could have moved under By-law 74-74 with the procedural safeguards given in that by-law (as found in the Planning Act), including the rights of notice,

of response and of appeal. He concluded that the placing of the "safeguards" in the Planning Act gave a clear notice that municipalities could not control the use of citizens' land or "seize their goods by arbitrary or uncontrolled action".

Counsel for the respondent, while not adopting the judge's interpretation of paragraph 129, enlarged on the argued application of the Planning Act. He submitted that the subject matter of the By-law could be enacted under the Planning Act, and that, as this was available to every Ontario municipality, paragraph 129 was, in effect, a dead letter and of no further use to municipalities. The Planning Act superseded all other statutes in its application. His position on the facts of this case was that if the City had proceeded under the Planning Act and By-law 74-74, the respondent would not have been precluded from raising in the response granted in the By-law the prior non-conforming use of the property (although the record does not make clear whether it was so used prior to 1974, but for the purpose of argument it can be assumed that it was). Paragraph 129(a)(ii), as can be seen, specifically states that a municipality may require occupants of land to cease using land for the dumping of refuse, etc. "whether or not such land or structures were so used before the passing of the by-law". This would not be the case, counsel submitted, under By-law 74-74.

Section 31 of the Planning Act, (under the predecessor section of which By-law 74-74 was passed) upon which counsel for the respondent relied, deals, in my view, with an entirely different subject matter than that covered by the Municipal Act and the By-law in issue. Section 31 is placed under the general heading "Community Improvement". The definition of "repair" in s-s.31(1), to which we were referred by counsel, states:

(f) "repair" includes the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the property shall conform with the standards established in a by-law passed under this section.

Nor does s-s.31(3)(d) advance the respondent's cause.

It reads:

(d) for requiring property that does not conform with the standards to be repaired and maintained to conform with the standards or for the site to be cleared of all buildings, structures, debris or refuse and left in graded and levelled condition.

This section clearly has a very different purpose than paragraph 129 of s.210 of the Municipal Act. There is no conflict or redundancy in the different sections of the different Acts. The Properties Standard by-law is basically dealing with building specifications including the tearing down of buildings and the clearing of such sites. It is not dealing with industrial or domestic waste.

It should also be noted that s-s.34(9) of the Planning Act, (s.34 being the first section under Part V: "Land Use Controls and Related Administration") which exempts from the application of by-laws passed under s.34 prior non-conforming uses has no application to s.31 and its provisions.

As stated, there is no conflict between the impugned By-law and the sections of the Municipal Act to which it refers, and s.31 of the Planning Act. Each section of both Statutes has its own purpose and no section, subsection or paragraph is rendered irrelevant or void by the other enactment. In my view s-ss. 5(1) and 9(1) of By-law 84-35 were validly enacted.

Having held that By-law 84-35 was validly enacted the basis used by the judge in the court below to strike down By-law 85-85 is gone. In any event it was not required. It may have been enacted because of a feeling that it gave the Building Commissioner greater protection against the threats of the respondent. It was an administrative by-law which merely authorized the carrying out of the provisions of the Waste Materials By-law, which action was already authorized by s.325 of the Municipal Act. No notice of this unnecessary By-law was required. As recited in the chronicle of events the respondent was given ample notice of the City's intention to enforce By-law 84-35.

Counsel for the respondent also submitted that if the appellant succeeded in its submission that the Waste Material By-law was validly enacted, nonetheless, the seizure of the respondent's "personal property" was in breach of s.8 of the Charter which reads:

Everyone has the right to be secure against unreasonable search or seizure.

It was somewhat difficult to follow this submission. It is agreed that the Charter is not directed to the protection of property rights, and, in the instant case, the property was removed on ample notice, after a properly conducted hearing which resulted in a conviction, under what I have held was a legal by-law. I do not consider that any Charter right was violated by the action of the City on the facts of this case. If s.8 has any application to the facts of this case, which I am satisfied it has not, in view of my findings that the Waste Materials By-law of the City of Hamilton is valid, the "seizure" was authorized by law and, on the facts, the "seizure" and the manner in which it was carried out was reasonable.

The appeal is accordingly allowed with costs, and the order of the court below set aside and the application dismissed with costs.

Michael A.C. J.
Done & 11/11/11
2 agree To Findings & A.

SUPREME COURT OF ONTARIO

COURT OF APPEAL

MACKINNON A.C.J.O., DUBIN AND FINLAYSON JJ.A.

IN THE MATTER OF the Municipal Act, R.S.O.
1980, c.302;

AND IN THE MATTER OF the Judicial Review
Procedure Act, R.S.O. 1980, c. 224

B E T W E E N:

EDWARD ALLEN

Applicant
(Respondent in Appeal)

- and -

THE CORPORATION OF THE CITY OF HAMILTON

Respondent
(Appellant)

J U D G M E N T

Released: April 30, 1987

*am

2. 7. 4

FOR ACTION

4a.

FROM E. W. Kowalski, Director
Community Development

DATE 1987 May 04

TO Planning & Development Committee

Refer To File No. 800-0610

Attention Of _____

Your File No. _____

SUBJECT

Commercial Improvement Programme

RECOMMENDATION

- i) That the Planning and Development Committee recommend to the Executive Committee that the Commercial Improvement Programme be proceeded with at an estimated gross cost of \$500,000 as provided for in the 1987 portion of the 1987-1991 Capital Budget as Project Number 37004.
- ii) That the Treasurer be requested to recommend to the Executive Committee, the amount and source of funds to be provided for this Capital Project.

E. Kowalski

BACKGROUND

At its meeting held 1986 August 13, the Planning and Development Committee requested the Department of Community Development to undertake the preparation of a longterm Strategic Planning and Management Plan for evaluating financial requests for active and future B.I.A.'s in the City of Hamilton. Subsequently, on 1986 September 10, the Department of Community Development provided a follow-up report and Capital Budget submission addressing the Commercial Improvement Programme. On 1987 January 29, City Council approved the Department of Community Development's Capital Budget submission of \$500,000 per year for the next five years for the Commercial Improvement Programme. As of 1987 February 2, the Department of Community Development notified and has been accepting submissions for the Commercial Improvement Programme from all eligible B.I.A.'s. The Department of Community Development will be reviewing those received, some of which are proposed for 1987.

cc: Mr. E. C. Matthews, City Treasurer
Treasury Department

Mr. E. A. Simpson, City Clerk
City Clerk's Department

ATTENTION: Mr. J. Schatz, Secretary, Executive
Committee

FOR ACTION

4b.

FROM E. W. Kowalski, Director
Department of Community Development

DATE 1987 May 05

TO Planning and Development Committee

Refer To File No. 800-0300

Attention Of _____

Your File No. _____

SUBJECT

Ontario Home Renewal Programme (O.H.R.P.)

RECOMMENDATION

That the attached five (5) O.H.R.P. applications be submitted to City Council for approval, authorizing the Department of Community Development to process grants/loans in the amount not to exceed \$7,500. The actual amount of grant or loan to be determined by inspection of the property under the Property Standards By-law 74-74 and pursuant to Regulation 506 (R.R.O. 1980) under The Housing Development Act.

E. Kowalski

BACKGROUND

Attached is a list of five (5) applicants whose applications are currently being processed for grants and/or loans pursuant to an amendment to The Housing Development Act, Regulation 506 (R.R.O. 1980).

For the information of the members of the Committee, the total number of applicants to date under the Ontario Home Renewal Programme is three thousand seven hundred and ninety-four (3,794).

...../2

Planning and Development
Committee

Ontario Home Renewal Programme

1. I. Riley
26 Ronaldshay Avenue
2. M. Brown
1092 Fennell Avenue East
3. S. Gregorasz
18 Scott Street
4. J. Mackie
110 Chestnut Avenue
5. J. McHugh
375 Tragina Avenue North

FOR ACTION

4c.

FROM E. W. Kowalski, Director
Department of Community Development

DATE 1987 May 06

TO Planning and Development Committee

Refer To File No. S.L.L. #1

Attention Of _____

Your File No. _____

SUBJECT

Second Level Lodging Home Programme, Mr. Roy Bennett, 160 Park Street South.

RECOMMENDATION

That a loan increase in the amount of \$5,055. be approved for Mr. Roy Bennett, owner of a Second Level Lodging Home, located at 160 Park Street South. The loan is amortized over a ten-year period at three percent interest and secured by a Lien on Title. The original loan amount was \$29,493. The new loan amount is \$34,548.

E. Kowalski

BACKGROUND

The Planning and Development Committee, in a report dated 1987 February 02, approved a loan for Mr. Bennett in the amount of \$29,493. Since that time, the Hamilton Fire Department has requested additional work be undertaken at the property. The City's Building Inspector also has uncovered several deficiencies which are eligible for funding under the Programme. The cost of the extra work totals \$5,055. and all estimates have been approved by the City's Building Department.

The Department of Community Development therefore recommends a loan increase to \$34,548. to include all work required under the City's Property Standards By-law and the Fire Department.

4d.

FOR INFORMATION

FROM E. W. Kowalski, Director
Department of Community Development DATE 1987 May 05

TO Planning and Development Committee Refer To File No. 800-0300

Attention Of _____

Your File No. _____

P R I V A T E A N D C O N F I D E N T I A L

SUBJECT

Hamilton Rehabilitation Programme (H.A.R.P.)

BACKGROUND

City Council at its regular meeting approved a list of applicants authorizing the Department of Community Development to process loans not to exceed \$7,500, with the actual loan to be determined by inspection of the property under The Property Standards By-law 74-74 and pursuant to By-law 78-113 under the Hamilton Rehabilitation Programme (H.A.R.P.)

Attached for your information is a list of one (1) applicant as of 1987 April 30, with a value of \$4,400.

The total number of approved applications as of 1987 April 30 is ninety-eight (98) with a total value of loans in the amount of \$535,117. The average loan is calculated at \$5,460.

...../2

Planning and Development
Committee

Hamilton Rehabilitation Programme

1. S. Phillips
52 East 22nd Street
\$4,400.00



5a.

THE CORPORATION OF THE CITY OF HAMILTON

FROM D.W.Vyce, Director of Property DATE 1987 May 5
Name & Title

FOR ACTION ☒ FOR INFORMATION ☐ File No. 90.11.287(4503)

TO: CITY COUNCIL ☐ (OR) PLANNING & DEVELOPMENT ☒
Committee

SUBJECT

Settlement of Expropriation - Part 239 York Street
D. Nash & B. Morison - York Street Redevelopment Project

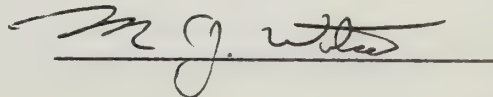
RECOMMENDATION

That an "Agreement by Owner to Accept Compensation" between the City of Hamilton and Douglas L. Nash and Brian W. Morison in respect of the expropriation of a portion of Municipal Number 239 York Street being on the south side of York Street between Hess and Queen Streets registered on the 21st day of February 1972 as Instrument No. 238194 A.B, be accepted.

Note: The land expropriated comprised a 12 foot strip required for roadwidening of York Boulevard over a distance of approximately 63 feet. The said lands contained an area of 743 square feet.

Compensation outstanding in the sum of \$7,169.30 will be charged to account 0280-02.

This Agreement by Owner to Accept Compensation is subject to the parties thereto entering into an accepted Offer to Purchase part of Lots 2 and 3, George Tiffany Survey, dated the 24th day of April, 1987.

BACKGROUND

The subject agreement represents the last outstanding settlement for the properties acquired and/or expropriated on the south side of York Street between Hess and Queen Streets, known as the York Street Redevelopment Project (Block 111).

1987 May 5
Planning & Development Committee
Page 2

Continued...

Separately from this Agreement the owners have entered into an Agreement of Purchase & Sale of contiguous City owned lands. Whereas the proceeds of this settlement will form part of the Purchase Price for the said contiguous City owned lands, we are directing this agreement to the Planning and Development Committee in accompaniment with the Offer to Purchase document in the interest of clarity.

Attch.

- c.c. - Mr. K.A. Rouff, City Solicitor
- Mr. E.C. Matthews, City Treasurer
 - Mr. M. Chidley, Regional Surveyor
 - Mr. E. Kowalski, Director of Community Development

AGREEMENT BY OWNER TO ACCEPT COMPENSATION

To: The Corporation of the City of Hamilton

I/We Douglas L. Nash and Brian W. Morison, hereby agree to accept the sum of \$ 7,169.30 from The Corporation of the City of Hamilton in full payment and settlement of compensation for all interests in the real property known as Municipal No. 239 York Street in part on Expropriation Plan No. SS-1057 Surveys registered on the 21st day of February 1972 as Instrument No. 238194 A.B.

I/We further agree that the aforesaid sum shall include all claims for damages, costs, injurious affection or any other claim whatsoever arising out of the expropriation of the said real property.

I/We agree that the said compensation monies will be subject to the usual adjustments, except for fire insurance premiums, as of the date for closing hereof, namely the 2nd day of ~~July~~ ^{JUNE} 19 87 **SEE NOTE ON SCHEDULE "A"

I/We acknowledge that I/we have delivered vacant possession of the said lands on September 1st, 1972 and that I/we shall also deliver on the date for closing, a deed, discharges of all encumbrances (including Writs of Execution) in existence before or after the Expropriation, and a release in a form satisfactory to you executed by all persons or corporations having any claim to compensation by reason of the said expropriation and a statutory declaration in a form satisfactory to you setting forth the fact that the persons and/or corporations executing the said discharges and release are all those having any claim to compensation.

This agreement is to remain open until acceptance by City Council and is to be read with all grammatical changes made necessary by the gender, number or corporate status.

DATED at HAMILTON

this 24th day of APRIL

19 87

WITNESS:

Mary Grace Ide

Brian W. Morison (L.S.)

Mary Grace Ide

[Signature] (L.S.)

____ (L.S.)

Solicitor's Name and Address

BRIAN W. MORISON G.C.

Mailing Address of Signing Parties

212-25 MAIN ST. W.
HAMILTON L8P 1H1

6/26/85

SCHEDULE "A"

Property
Part Lot known as
Municipal No. 239, York Street
Hamilton, Ontario

Owner's Interest
Douglas L. Nash and
Brian W. Morison

ELEMENTS OF COMPENSATION:

Market Value of Land	-	\$ 5,243.00
Injurious Affection	-	<u>1,000.00</u> 6,243.00
Less Compensation paid May 12th, 1972 pursuant to the Expropriation Act	-	<u>2,996.00</u> 3,247.00
Interest at 6% pursuant to the Expropriation for the period commencing February 21st, 1972 to Current (6% x 15 years = 90%)	-	2,922.30 <i>h</i>
Costs	-	<u>1,000.00</u>
TOTAL COMPENSATION		\$ 7,169.30

It is understood and agreed that \$7,169.30 is in full and final payment of all compensation whatsoever which Douglas L. Nash and Biran W. Morison might be entitled to as a result of the expropriation by The Corporation of the City of Hamilton of the lands described herein.

DATED at HAMILTON this 24th day of APRIL 1987

WITNESS:

Mary Jane Dale

Brian W. Morison

Mary Jane Dale

D. L. Nash

★

This Offer to accept compensation is subject to the parties hereto entering into an accepted Offer to Purchase of Parts of Lots 2 and 3, George S. Tiffany Survey, dated the 24th day of April, 1987.



5b.

THE CORPORATION OF THE CITY OF HAMILTON

FROM D.W. Vyce, Director of Property DATE 1987 May 5
Name & Title

FOR ACTION ☒ FOR INFORMATION ☐ File No (4503)

TO: CITY COUNCIL ☐ (OR) PLANNING & DEVELOPMENT X ☐
Committee

SUBJECT

Sale of Vacant City Owned Land on the Southerly Limit of York Boulevard between Hess Street and Queen Street to Douglas L. Nash and Brian W. Morison

RECOMMENDATION

That an Offer to Purchase an irregular shaped parcel of vacant land located along the southerly limit of York Boulevard, between Hess Street North and Queen Street North, executed by Douglas L. Nash and Brian W. Morison on May 4, 1987 and scheduled for closing on or before October 29, 1987, be accepted and completed.

The lands so described contain an area of 15,080 square feet more or less.

The purchase price is \$301,600.00, the proceeds of which will be credited to account 0280-02. A certified deposit cheque in the amount of \$30,000.00 is being held by the City Treasurer pending Council acceptance and closing of the transaction.

The transaction is subject to the following conditions agreements and covenants:

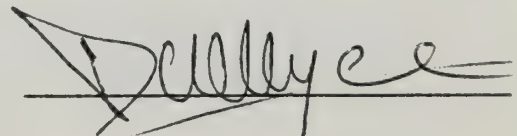
- (a) Development of the property is subject to "Site Plan Control" and such plans for said development shall be approved by the City prior to closing of this transaction. In the event such plans are not so approved, this transaction shall be null and void and the deposit returned to the Purchaser.

RECOMMENDATION - Continued...

- (b) The Purchaser shall commence construction of a "commercial building" comprising 5,000 square feet more or less in accordance with the said Site Plan Control, said construction to be completed within 18 months from the date of closing.
- (c) In the event of failure of the Purchaser to comply as specified under Part (b) of paragraph 13 herein, the Vendor shall be entitled at his option to a reconveyance of the said lands at the price paid herein, without interest, and without compensation for any improvements that might have been made to said lands, free from all encumbrances, less any unpaid taxes at the date of said reconveyance and less the deposit paid herein.
- (d) The Purchaser agrees that he will sign the deed of land to him to give covenants to the effect as specified under Parts (b) and (c) of paragraph 13 herein.
- (e) The Vendor to provide Purchasers with an up-to-date land survey of the subject land showing all boundary distances and total square foot area, 30 days prior to closing.

In the event total square foot area is less than 15,080 square feet, purchase price to be reduced at the rate of \$20.00 a square foot.
- (f) Upon Acceptance of this Offer, the Purchaser shall be authorized to erect a sign promoting the leasing of commercial space on the premises.

In the event of failure of the Purchaser to complete this transaction by the closing date on or before October 29, 1987, the deposit shall be forfeited to the Vendor as liquidated damages, in addition to any other right or remedy to which the Vendor may be entitled hereunder, unless failure to complete is as a result of the City not approving the said plans, in which case the deposit shall be returned to the Purchaser.

A handwritten signature, likely "D. Dally", is written over a horizontal line. The signature is in cursive and includes a large, stylized initial 'D'.

BACKGROUND

We attach hereto an Offer to Purchase covering the sale by the City to Douglas L. Nash and Brian W. Morison for the sum of \$301,600.00 being composed of parts of Lots 2 and 3, Geo. S. Tiffany's Survey otherwise known as Peter Hess Survey in the block bounded by York Queen, Peter and Hess Streets comprising an area of 1.401 m² (15,080 square feet). The lands are irregular in shape are vacant and remnant to the York Street Redevelopment project.

This parcel was originally acquired by the City in connection with the York Street Redevelopment project approximately 11 years ago. It is "H" zoned land, surplus to the City's needs and is the last parcel of significant size, left for disposal.

Up to current times, there has been no market for this parcel and in 1981, the Parking Authority for the City of Hamilton was authorized to manage same as a municipal parking lot. The demand regrettably proved insignificant however and the facility has been operating at an average annual loss of \$16,500 since that time.

The Purchasers, Nash & Morison are owners of the lands abutting the subject lands on both the east and south westerly borders (see cross-hatched on Schedule A) and have expectations for further assemblies thereto as occasions permit.

We respectfully submit that an assembly of the City's land with those of the proponents will permit optimum development of this underdeveloped quadrant of the York/Hess intersection, and add enhancement to this important artery to Hamilton's downtown core.

The price negotiated represents current market value and we are pleased to recommend acceptance of same.

Attch.

- c.c. - Mr. K.A. Rouff, City Solicitor
- Mr. E.C. Matthews, City Treasurer
- Mr. M. Chidley, Regional Surveyor
- Mr. W.G. Cottrell, General Manager
Parking Authority for the City of Hamilton
- Mr. E. Kowalski, Director of Community Development

OFFER TO PURCHASE

DOUGLAS L. NASH and
BRIAN W. MORISON
1394 Main St. East, Suite 2
Hamilton, Ontario
LAC 1C1

I/We of the City of Hamilton
in the Regional Municipality of Hamilton-Wentworth hereinafter called the Purchaser,
hereby agree to and with THE CORPORATION OF THE CITY OF HAMILTON,
hereinafter called the Vendor,

to purchase all and singular that certain parcel or tract of land and premises situate in the City of Hamilton in the Regional Municipality of Hamilton-Wentworth and being composed of parts of Lot 2 & 3, Geo. S. Tiffany's Survey otherwise known as Peter Hess Survey with Block bounded by York, Queen, Peter and Hess Streets comprising an area of 1.401 m² (15,080 sq.ft.) more or less). The lands which are irregular in shape are vacant and remanent to the York St. redevelopment project. They are represented more or less by heavy outline on portion of Plan P741 Surveys attached hereto.

at the price of THREE HUNDRED & ONE THOUSAND, SIX HUNDRED-----DOLLARS (\$ 301,600.00---)
of lawful money of Canada, payable as follows:-

- (a) A deposit of THIRTY THOUSAND-----DOLLARS (\$ 30,000.00---)
by certified cheque payable to the Vendor.
- (b) The balance of the purchase price namely TWO HUNDRED AND SEVENTY-ONE THOUSAND,
SIX HUNDRED-----DOLLARS (\$ 271,600.00---)
with interest as hereinafter provided, and subject to
adjustments, by certified cheque on the closing of this transaction.

Provided that this Offer to Purchase is subject to the following conditions:-

1. This Offer shall be irrevocable by the Purchaser and may be accepted by the Vendor up to but not after the 2nd day of June 1987, by a letter mailed or delivered to the Purchaser at the above address.
2. In the event that this Offer is not accepted, this Offer and everything herein contained shall be null and void and no longer binding upon any of the parties hereto and the deposit shall be returned by the Vendor without interest and the Vendor shall not be liable for any damages or costs.
3. In the event of and upon the acceptance of this Offer, this Offer and the letter of acceptance shall be a binding contract of purchase and sale and shall be completed in accordance with the terms hereof.
4. The title is good and free from all encumbrance, except as to any registered restrictions or covenants.
5. The Purchaser is not to call for the production of any title deeds, abstract or evidence of title except such as are in the possession of the Vendor.
6. The Purchaser is to be allowed thirty days from the date of acceptance of such Offer to examine the title at his own expense. If within that time any valid objection to title is made in writing to the Vendor, or its Solicitor, which the Vendor shall be unable or unwilling to remove and which the Purchaser will not waive, the contract arising out of the acceptance of this Offer shall, notwithstanding any intermediate acts or negotiations in respect of such objections, be null and void and all monies shall be returned by the Vendor without interest and it shall not be liable for any damages or costs. Save as to any valid objection so made within such time the Purchaser shall be conclusively deemed to have accepted the title of the Vendor to the real property.

7. This transaction shall be closed on or before the 29th day of October 1987.
8. On the closing of this transaction, the Vendor will convey the said lands to the Purchaser by a good and sufficient deed thereof in fee simple, free and clear of dower rights and all encumbrances, and shall deliver vacant possession of the said lands to the Purchaser free of all tenancies.
9. The Purchaser shall assume taxes, local improvements, water and sewer rates from the date set out in paragraph 7 hereof.
10. Pending completion of this transaction, the Vendor will hold all fire insurance policies and the proceeds thereof in trust for the parties hereto as their interests may appear and in the event of damage to the said premises the Purchaser may either take the proceeds of the insurance, if any, and complete the purchase or may cancel this Offer whether accepted or not and have all monies theretofore paid returned without interest.
11. The deed or transfer is to be prepared at the expense of the Vendor. If the Vendor is a Trustee the deed or transfer is to contain trustee covenants only.
12. This agreement and its acceptance is to be read with all changes of gender or number required by the context.
13. It is understood and agreed that:
 - (a) Development of the property is subject to "Site Plan Control" and such plans for said development shall be approved by the City prior to closing of this transaction. In the event such plans are not so approved, this transaction shall be null and void and the deposit returned to the Purchaser.
 - (b) The Purchaser shall commence construction of a ^{"COMMERCIAL BUILDING"} ~~"Law Office"~~ comprising 5,000 square feet more or less in accordance with the said Site Plan Control, said construction to be completed within 18 months from the date of closing. *Sup*
 - (c) In the event of failure of the Purchaser to comply as specified under Part (b) of paragraph 13 herein, the Vendor shall be entitled at his option to a reconveyance of the said lands at the price paid herein, without interest, and without compensation for any improvements that might have been made to said lands, free from all encumbrances, less any unpaid taxes at the date of said reconveyance and less the deposit paid herein.
 - (d) The Purchaser agrees that he will sign the deed of land to him to give covenants to the effect as specified under Parts (b) and (c) of paragraph 13 herein.
 - (e) The Vendor to provide Purchasers with an up-to-date land survey of the subject land showing all boundary distances and total square foot area, 30 days prior to closing.

In the event total square foot area is less than 15,080 square feet, purchase price to be reduced at the rate of \$20.00 a square foot.
 - (f) Upon acceptance of this Offer, the Purchaser shall be authorized to erect a sign promoting the leasing of commercial space on the premises.
14. In the event of failure of the Purchaser to complete this transaction by the date set out in paragraph 7 hereof, the deposit shall be forfeited to the Vendor as liquidated damages, in addition to any other right or remedy to which the Vendor may be entitled hereunder, unless failure to complete is as a result of the City not approving the said plans, in which case the deposit shall be returned to the Purchaser.

Time shall be of the essence of this Agreement, which shall enure to the benefit of and be binding upon the Purchaser, his heirs, executors, administrators, successors and assigns, and shall enure to the benefit of and be binding upon the Vendor, its successors and assigns.

u

Schedule "A" attached hereto shall form a part of the Offer to Purchaser.

DATED at Hamilton this 4 day of May A.D. 1987.

SIGNED, SEALED AND DELIVERED

in the presence of

Mary Jane Bell

) [Signature] (Seal)
) [Signature] (Seal)
) _____ (Seal)

Name of Purchaser's Solicitor BRIAN W. B. MORISON

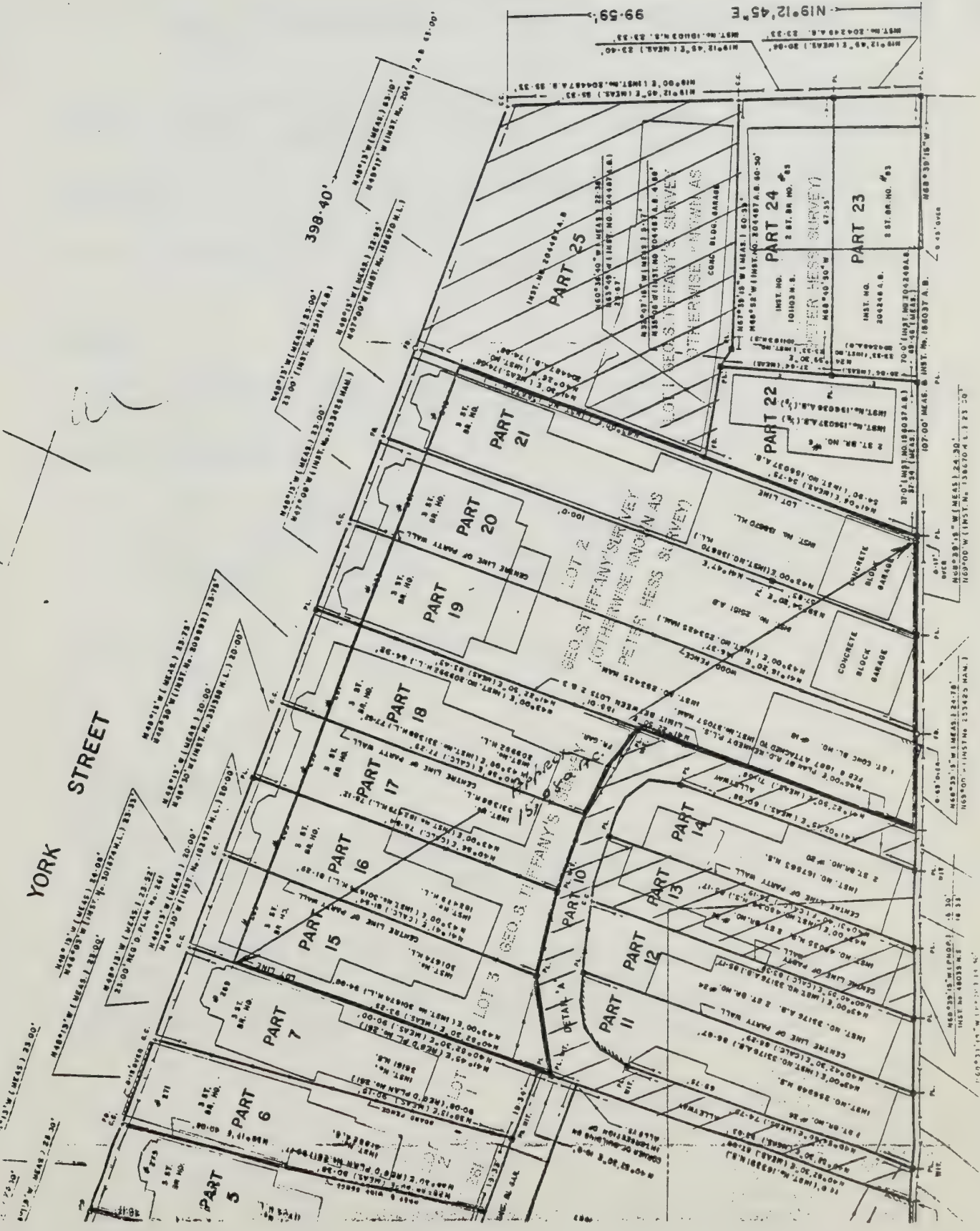
Address of Purchaser's Solicitor 2121-25 MAIN ST. W. HAMILTON
LSP 1H1

EXHIBIT A

STREET HESS

99.59' E

YORK STREET





THE CORPORATION OF THE CITY OF HAMILTON

5c
(i)

FROM D.W. Vyce, Director of Real Estate DATE 1987 April 22
Name & Title

FOR ACTION ☒ FOR INFORMATION ☐ File No. 20.1.257(4503)

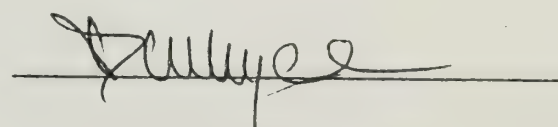
TO: CITY COUNCIL ☐ (OR) PLANNING & DEVELOPMENT ☒
Committee

SUBJECT

Sale of vacant City owned lands - 425 York Boulevard between Locke and Pearl Streets to Victoria Park Community Homes Inc.

RECOMMENDATION

- (1) That a Council resolution dated March 11th, 1986 (Item 9 of the Planning & Development Committee's 6th Report) to sell City owned lands at Municipal No. 425 York Boulevard comprising .566 acres, to Victoria Park Community Homes Inc. for \$225,000, be rescinded.
- (2) That the City Solicitor be authorized to refund deposit money in the amount of \$100.00 being held by the City Treasury.



BACKGROUND

An Offer to Purchase in respect of the subject transaction was made subject to the availability of National Housing financing, and Ontario Housing allocations, for not less than 46 units of housing.

We were advised by the Purchaser that their applications in these regards have been denied. Accordingly, the Purchasers have formerly exercised their right to void the Purchase and Sale Agreement, and recover their deposit of \$100.00.

Continued

1987 April 22
Planning & Development Committee
Page 2

BACKGROUND - continued

This mater was brought to the attention of the Committee as an information item dated May 23rd, 1986 and the property has since been sold to Jubilee Consultant Services for Non-Profit Housing pursuant to Council's resolution, November 25th, 1986 (Item 14 of the Planning & Development's 25th Report).

- c.c. - Mr. K.A. Rouff, City Solicitor
 Attention: Mr. P. Shen
- Mr. E.C. Matthews, City Treasurer
 - Mr. M. Chidley, Regional Surveyor



THE CORPORATION OF THE CITY OF HAMILTON

5c.
(ii)

FROM D.W. Vyce, Director of Real Estate DATE 1987 April 23
Name & Title

FOR ACTION ☒ FOR INFORMATION ☐ File No. 20.1.257(4503)

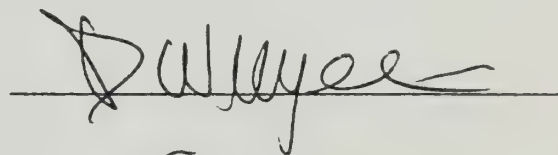
TO: CITY COUNCIL ☐ (OR) PLANNING & DEVELOPMENT ☒
Committee

SUBJECT

Sale of vacant City owned land - 425 York Boulevard - between Locke and Pearl Streets to Jubilee Consultant Services -Hamilton.

RECOMMENDATION

That an Offer to Purchase City owned lands at Municipal No. 425 York Boulevard by Jubilee Consultant Services, Hamilton which is scheduled to close, on April 1st, 1987, be extended to close on or before September 30th, 1987; all other terms and conditions to remain unchanged.



BACKGROUND

The subject transaction is conditional upon the Purchaser receiving National Housing financing, and Ontario Housing allocations for the development of at least 50 units on the site.

The Purchaser has advised that preliminary commitments have been received with respect to his allocations but an extended time is required to insure that Ministerial approvals with regard to technical matters can be finalized.

We are advised by the General Manager of the Municipal Non-Profit Housing Corporation that whereas they are not in a position to develop the subject lands, they are supportive of our recommendation to extend and close the transaction with Jubilee.

c.c.- Mr. K.A. Rouff, City Solicitor
Attention: Mr. P. Shen
- Mr. E.C. Matthews, City Treasurer
- Mr. M. Chidley, Regional Surveyor



5d.

THE CORPORATION OF THE CITY OF HAMILTON

FROM D.W. Vyce, Director of Real Estate DATE 1987 April 22
Name & Title

FOR ACTION ☒ FOR INFORMATION ☐ File No. 80.2.82(4509)

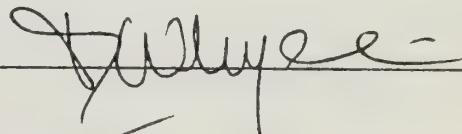
TO: CITY COUNCIL ☐ (OR) PLANNING & DEVELOPMENT ☒
Committee

SUBJECT

Extension of Closing Date - Sale of 484 James Street North.

RECOMMENDATION

That the closing date for the sale of 484 James Street North to Forest James Investments Limited be extended from April 10th, 1987 to June 15th, 1987.



BACKGROUND

We have been advised that the legal description and reference plan required to close this transaction are not complete as of this date. The purchaser has requested an extension to June 15th, 1987. We therefore recommend that approval be given for this extension.

- c.c. - Mr. K.A. Rouff, City Solicitor
Attention: Mr. P. Shen
- Mr. E. Matthews, City Treasurer
Attention: Mr. D. Cobb
- Mr. M. Chidley, Regional Surveyor

F O R A C T I O N

6a.

FROM J. J. Schatz, Secretary,
Executive Committee

DATE 1987 May 6

TO Mrs. S. K. Reeder, Acting Secretary
Planning and Development Committee

Refer To File No. _____

Attention Of _____


Your File No. _____

SUBJECT

RENAMING OF ART GALLERY PLAZA - THE COMMONWEALTH PLAZA

RECOMMENDATION

That the Plaza above the Art Gallery be named "Commonwealth Plaza" and that renaming ceremonies take place to coincide with the visit by the Commonwealth Games Site Review Committee scheduled for sometime between May 20 and November 20, 1987.



BACKGROUND

The Hamilton Commonwealth Games Operations Committee is of the opinion that the naming of this Plaza, "The Commonwealth Plaza" would favourably impress the Commonwealth Games Site Selection Officials and enhance the City's chances of being awarded the 1994 Commonwealth Games.

c.c.: Mayor R. M. Morrow, Co-Chairman, Commonwealth Games Bid Committee
Mr. R. C. Prowse, Executive Secretary, commonwealth Games Bid Committee
Mr. D. W. Vyce, Director of Property

APR 15 1987

6b.

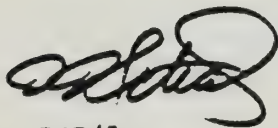
TO: Secretary, Parks & Recreation Committee
Secretary, Planning & Development Committee
Secretary, Transport & Environment Committee
Secretary, Personnel Committee
Secretary, Finance Committee
Secretary, Legislation Committee

FROM: Mr. J. J. Schatz, Secretary
Executive Committee

RE: Standing Committee meeting
schedule

DATE: 1987 April 15

Subjoined for your information, please find a copy of Section 10 of the Ninth Report of the Executive Committee respecting the standing committee meeting schedule which City Council at its meeting held April 14, 1987 referred to the respective standing committee's.



JJS/dg

10. That the meeting schedule for the City of Hamilton Standing Committees be as set out in Schedule "C" attached.

NOTE: This schedule provides for the following changes to the current schedule.

Executive Committee

- No change - Thursday at 2:00 p.m.

Transport & Environment Committee

- Change from Monday at 2:00 p.m. to Tuesday at 2:00 p.m.

Parks & Recreation Committee

- No change - Tuesday at 9:30 a.m.

Planning & Development Committee

- No change - Wednesday at 2:00 p.m.

Legislation Committee

- Change from Monday at 10:30 a.m. to Thursday at 10:30 a.m.

Personnel Committee

- No change - Wednesday at 9:00 a.m.

Finance Committee

- Change from Tuesday at 2:00 p.m. to Wednesday at 2:00 p.m.

FOR ACTION

7a.

FROM Local Architectural Conservation
Advisory Committee

DATE 1987 May 4

TO Planning and Development Committee

Refer To File No. _____

Attention Of _____

Your File No. _____

SUBJECT

Designation of 158 Mary Street

RECOMMENDATION

1. That approval be given to the "Intent to Designate" the property at 158 Mary Street as a building of historical and architectural value pursuant to the provisions of the Ontario Heritage Act, 1983.
2. That the City Solicitor be authorized and directed to take appropriate action to have this property designated pursuant to the provisions of the Ontario Heritage Act, 1983.

John Thompson

BACKGROUND

At its meeting held 1987 April 27, LACAC approved the request of the owner, Sid Hodgkins, that this property be designated. A copy of a report presented to LACAC which contains the "Reasons for Designation" is being finalized by our Architectural Historian, Mrs. Nina Chapple.

REASONS FOR DESIGNATION

158 Mary Street

The stone house at 158 Mary Street was built in 1855-6 for customs surveyor William Pring. Located at the north-east corner of Mary and Cannon Streets, the house originally backed onto Archibald Ferguson's farm. Since the late 19th century, it has been surrounded by residential and industrial buildings, with a row of Victorian houses to the north and a manufacturing complex to the south.

Historical Significance

William Pring only lived in the house for about four years, moving to Port Colbourne in 1860 to serve as customs officer. He sold the stone house in 1871 to Duncan MacNab who rented it out for the duration of his thirty year ownership.

The house was purchased in 1908 by William B. Hopkins, a physician, and was owned and occupied by his family until 1940. His son, Beamer W. Hopkins, had a particularly distinguished career as a politician, judge and public servant, serving at various times as alderman, controller, vice-president of the Parks Board, police commissioner and city magistrate.

Architectural Significance

158 Mary Street is a relatively rare example of pre-Confederation stone architecture in Hamilton. Representative of the substantial, two-storey stone residences built in the city during the 1850's, this four-bay house features a simple gable roof, parapet end walls with built-in double chimneys, a dressed stone front (west facade) and coursed stone end wall (south facade), corner quoins, double-hung windows which originally had six-paned sashes, and a semi-circular attic window in the end wall. Somewhat unusual is the distinctive Renaissance Revival entrance, which comprises a wide doorway flanked by stone columns supporting a semi-circular voussoir arch and traceried fanlight.

Of special interest are several interior features, notably, an elegantly proportioned spiral wooden staircase and the two rounded corners of the dining room with their curved panelled doors.

Designated Features

Important to the preservation of 158 Mary Street are the original features of the west and south facades including but not limited to the stone masonry, the original window openings, the front entrance (excluding the present front door and the 20th century porch addition) and the interior spiral staircase.

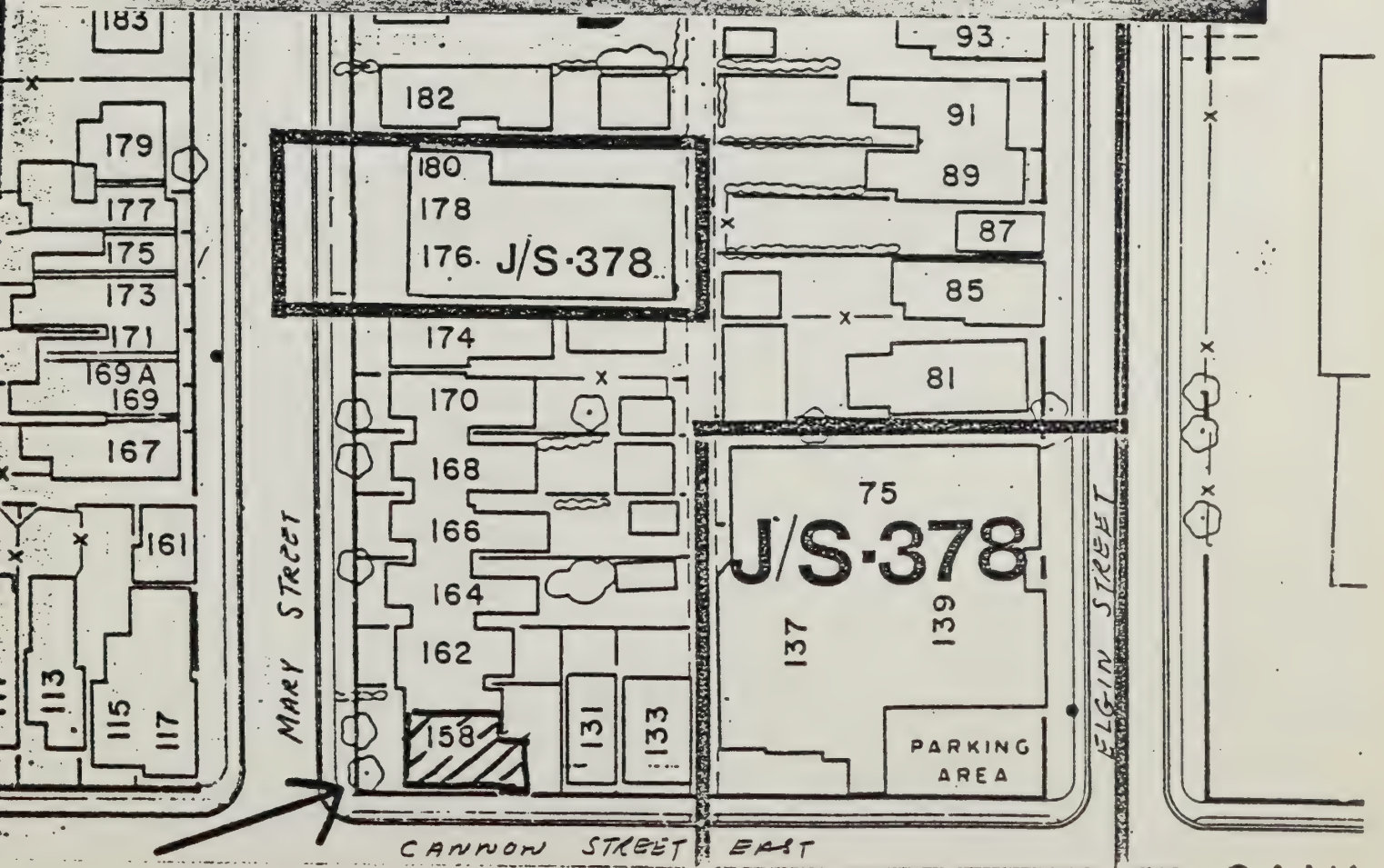
158 MARY ST.

Beasley Neighbourhood

158 MARY ST

527-6550

Sig HODESKISS



FOR ACTION

7b.

FROM Local Architectural Conservation
Advisory Committee

DATE 1987 May 4

TO Planning and Development Committee

Refer To File No. _____

Attention Of _____

Your File No. _____

SUBJECT

Designation of "The Gardener's Cottage" at 25 Tecumseh Street.

RECOMMENDATION

1. That approval be given to the "Intent to Designate" the property at 25 Tecumseh Street as a building of historical and architectural value pursuant to the provisions of the Ontario Heritage Act, 1983.
2. That the City Solicitor be authorized and directed to take appropriate action to have this property designated pursuant to the provisions of the Ontario Heritage Act, 1983.

John L. Thompson

BACKGROUND

At its meeting held 1987 April 27, LACAC approved the request of the owner, Dorothy Klippenstein, that this property be designated. A copy of a report presented to LACAC which contains the "Reasons for Designation" is being finalized by our Architectural Historian, Mrs. Nina Chapple.

REASONS FOR DESIGNATION

25 Tecumseh Street

Known as the Gardener's Cottage, the two-storey brick house at 25 Tecumseh Street (formerly St. Mary's Lane) was built in 1856-7 for Sir Allen MacNab's gardener, William Reid. Situated adjacent to Dundurn Park, overlooking Hamilton Harbour, the house originally stood facing the MacNab family burial plot at the north-west corner of MacNab's Survey. Its property included the three northernmost lots on the west side of Inchbury Street (Lots 57, 58 and 59).

Historical Significance

William Reid was hired by Sir Allen MacNab in 1834 to lay out the grounds of Dundurn and to plant and tend his crops and gardens. The building of the gardener's own residence coincided with the landscaping improvements planned for MacNab's estate by George Laing, a Scottish landscape architect engaged in 1856.

The property comprising the brick house and the three lots (with a 200 foot frontage on Inchbury Street) were leased for life to William Reid in 1862, shortly before MacNab's death. Reid lived there for only about five more years but the property remained in the MacNab family until 1907. It was then sold to railway engineer Joseph A. Nelligan who subdivided it, selling the Gardener's Cottage in 1911 to Thomas J. Baker, father of the present owner.

Architectural Significance

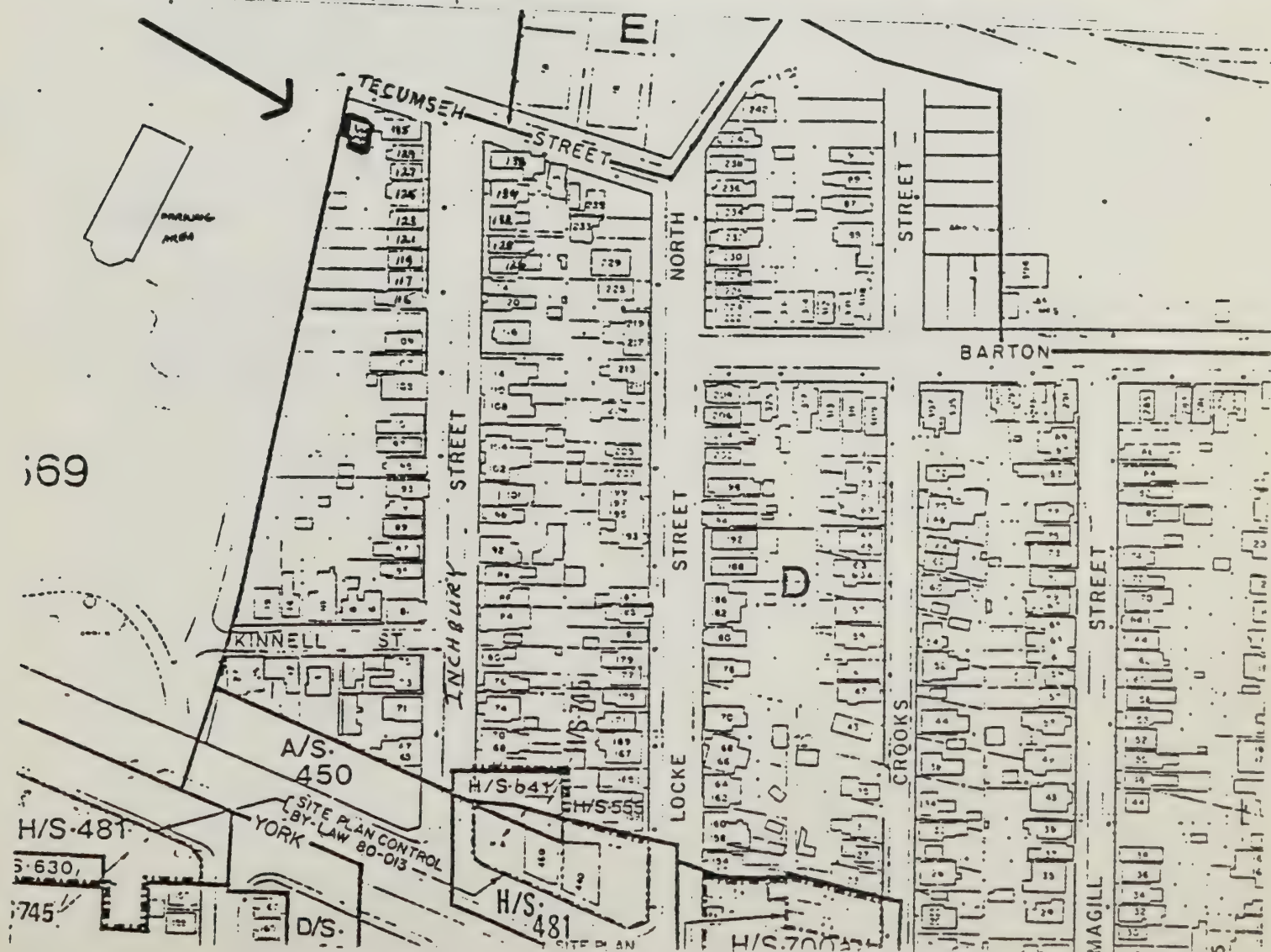
The Gardener's Cottage represents a distinctive pre-Confederation vernacular house type, of which there are relatively few surviving examples in the Hamilton area. This narrow two-storey, three-bay house features a simple gable roof, parapet end walls with single built-in chimneys, double-hung sash windows (six-over-six paned on the ground floor) with flat-arched lintels, and a central doorway. An unusual feature is the six-over-three paned windows of the second storey.

Designated Features

Important to the preservation of 25 Tecumseh Street are the original features of the north, south and west facades, including but not limited to the brick masonry, the one-storey rear wing, the three chimneys, the original window openings and multi-paned double-hung sash windows, and the flat arch over the front entrance which originally had sidelights and a rectangular transom (removed ca. 1930's).



Map: Strathcona Neighbourhood



FOR ACTION

7c.

FROM Local Architectural Conservation
Advisory Committee

DATE 1987 May 4

TO Planning and Development Committee

Refer To File No. _____

Attention Of _____

Your File No. _____

SUBJECT

Designation of MacNab Street Presbyterian Church.

RECOMMENDATION

1. That approval be given to the "Intent to Designate" the property at the MacNab Street Presbyterian Church as a building of historical and architectural value pursuant to the provisions of the Ontario Heritage Act, 1983.
2. That the City Solicitor be authorized and directed to take appropriate action to have this property designated pursuant to the provisions of the Ontario Heritage Act, 1983.

John Thompson

BACKGROUND

At its meeting held 1987 April 27, LACAC approved the request of the owner, MacNab Street Presbyterian Church, that this property be designated. A copy of a report presented to LACAC which contains the "Reasons for Designation" is being finalized by our Architectural Historian, Mrs. Nina Chapple.

FOR ACTION

7d.

FROM Local Architectural Conservation
Advisory Committee DATE 1987 , May 4th

TO Planning & Development Committee Refer To File No. _____

Attention Of _____

Your File No. _____

SUBJECT

Pigott and Sun Life Buildings - Heritage Permit Application

RECOMMENDATION

That the Planning and Development Committee recommend to City Council that approval be given to the Heritage Permit Application by The New Market Centre Inc., owner of the Pigott Building, 36 James Street South and the Sun Life Building, 42 James Street South to carry out alterations to the designated features of these buildings as outlined in the letter from Mr. John Romanov, Architect dated April 27, 1987 attached to hereto as Exhibit "A", upon the following conditions:

- (a) the color of the windows of both buildings shall be a replication of the original colors.
- (b) the north and west walls of the Sun Life Building are to be cleaned without the use of sandblasting.

BACKGROUND

The subject buildings have been designated by by-law under The Ontario Heritage Act, 1983. Consequently, alterations of a designated property requires Council's consent.

At its meeting held April 27, 1987 LACAC reviewed the Heritage Permit Application submitted by the owners and consented to the alterations subject to the two conditions outlined in the above recommendation regarding the cleaning of exterior walls and the color of the windows.

cc: Mrs. Nina Chapple, Architectural Historian

Mr. John Romanov, Architect
2359 Royal Windsor Drive
Mississauga, Ontario
L5J 1K5

27 April 1987

Office of the City Clerk
Hamilton City Hall
Hamilton, Ont.

c/o: Nina Chapple
Architectural Historian
Local Planning Division

Dear Madam:

re: Heritage Gardens
Pigott & Sun Life Bldgs.
Hamilton, Ont.

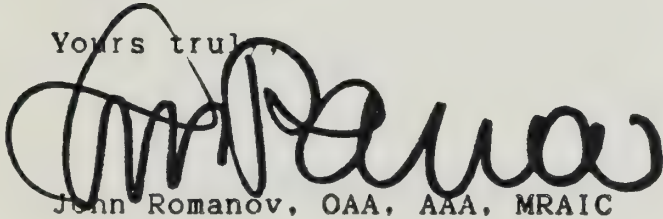
Attached, please find copies of the proposed ground floor, eighth floor, and exterior elevations for the above.

It is proposed that the following renovations be completed to the historically designated areas of the buildings.

1. Pigott Bldg. Lobby - the existing lobby is to be restored to that original in as much as is technically feasible, save the following alterations; it is proposed that the existing arch opposite the existing exit stair archway be opened as well as the two panels now containing mechanical/electrical grillwork to the west; the alterations are required to provide access to the Sun Life elevator lobby.
2. Sun Life Board Room - the current state of the board room is such that all the significant architectural elements-fireplace, wainscotting, skylite, wall panelling-have been removed by the previous owners; the large, two storey volume is to be converted into three two storey residential suites, and allow for the retaining of the vaulted ceiling at the east wall, along with the ocular windows and their plaster treatment.
3. Pigott & Sun Life Windows - the existing windows of both buildings are to be removed and replaced with thermal units in aluminum frames; the configuration and color of the proposed windows is to match that existing as closely as is technically and functionally feasible; the Pigott Bldg. windows will consist of a fixed thermal unit below horizontal sliders, maintaining the 'cruciform' configuration; the Sun Life Bldg. windows will consist of a fixed thermal unit above a vertical slider, maintaining the 'double-hung' configuration.

4. Pigott & Sun Life Exteriors - the north and west walls of the Sun Life Bldg. are to be cleaned and repainted a biege/gray to match the brick color of the Pigott Bldg.; the remaining faces of both buildings are to be chemically cleaned in an approved manner.

Yours truly,

A large, stylized handwritten signature in black ink, appearing to read "J. Romanov".

John Romanov, OAA, AAA, MRAIC

L

A

C

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C 7e

LOCAL ARCHITECTURAL CONSERVATION ADVISORY COMMITTEE

P5-8-4-7

May 5, 1987

MAY - 7 1987

Re: Heritage Policy Review

As you are aware the Heritage Policy Review was recently launched by the Honourable Lily Munro, Minister of Citizenship and Culture. The trend toward awareness of our heritage seems to be accelerating in our area and indeed across the Province. This review, therefore, is very timely and the review process, although it will take much effort, offers a great opportunity to influence policy and legislation.

The initial Hamilton meeting is scheduled to take place:

DATE	Wednesday 13th May 1987
TIME	7:00 p.m.
PLACE	Convention Centre (Chedoke A), Hamilton

Because there is strength in numbers, I would encourage as many people as possible to attend this important gathering. Perhaps you would be kind enough to circulate your members with a copy of this letter. The meeting will focus on the discussion paper which has recently been released by the Ministry of Citizenship and Culture.

If you require a copy of the discussion paper, the news release or the Minister's speech dated February 16, 1987 please call David Godley of the City Hall Planning Department (526-4229). David is working with me to co-ordinate the City of Hamilton LACAC's response to the Policy Review.

Looking forward to seeing you in May.

Sincerely,



Gil Simmons, Chairperson
Heritage Act Review Committee
LACAC Hamilton

8a/

F O R A C T I O N

FROM: Department of Engineering

DATE : May 4, 1987

TO: Planning and Development Committee

Refer to File No.: S704-27

Attention of : K. A. Brenner

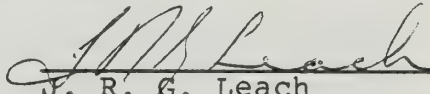
Your File No. : _____

SUBJECT

"DICENZO GARDENS - PHASE 1", Hamilton
(Cash Payment in Lieu of 5% Parkland Dedication)

RECOMMENDATION

The Corporation of the City of Hamilton accept the sum of \$41,571.72 as cash payment in lieu of 5% dedication in connection with "DICENZO GARDENS - PHASE 1", Hamilton, this being the cash requirement under Section 50 of the Planning Act.


J. R. G. Leach
Commissioner of Engineering

BACKGROUND

The owners of the lands for the above referenced subdivision will be executing a Subdivision Agreement with the City of Hamilton in the near future. A copy of the Final Survey Plan is attached for your information.

In accordance with normal City procedures, the City and Regional staff have completed the calculations for the 5% cash payment in lieu of Parkland dedication. The sum to be included in the Subdivision Agreement has been calculated to be \$41,571.72.

*Note: These lands are located west of Upper Wellington Street and south of Stone Church Road in the Ryckman Neighbourhood, Hamilton.

 DVC:lj

cc : D. Consoli, City Treasury Dept.
cc : P. Shen, City Solicitor's Office

SCHEDULE "A"

STONE CHURCH ROAD E.

PLAN OF

ROAD ALLOWANCE BETWEEN CONCESSIONS 7 AND 8

Di Cenzo Gardens

phase one

PART OF LOT 13 - CONCESSION 8 - GEOGRAPHIC TOWNSHIP OF BARTON

CITY OF HAMILTON

SCALE 1:1750

A.P. 62R 8386

PLAN 62M

1. THE LAND SHOWN ON THIS PLAN IS THE PROPERTY OF THE CITY OF HAMILTON AND IS BEING OFFERED FOR SALE BY PUBLIC AUCTION ON THE 15th DAY OF MARCH 1988 AT 10:00 AM AT THE CITY CLERK'S OFFICE, 100 KING STREET WEST, HAMILTON, ONTARIO L8N 3K5.

Notes: 1. THE CITY OF HAMILTON IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. 2. THE CITY OF HAMILTON IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

Surveyor's Certificate: 1. I, the undersigned, being a duly qualified and licensed surveyor, have surveyed the above described land and have found the same to be in accordance with the plan thereon.

Owner's Certificate: 1. I, the undersigned, being the owner of the above described land, hereby certify that the same is in accordance with the plan thereon.

Legal Description: 1. The land shown on this plan is the property of the City of Hamilton and is being offered for sale by public auction on the 15th day of March 1988 at 10:00 AM at the City Clerk's Office, 100 King Street West, Hamilton, Ontario L8N 3K5.

2. The land shown on this plan is the property of the City of Hamilton and is being offered for sale by public auction on the 15th day of March 1988 at 10:00 AM at the City Clerk's Office, 100 King Street West, Hamilton, Ontario L8N 3K5.

Lot	Area (sq. ft.)	Area (sq. m.)	Area (sq. ft.)	Area (sq. m.)	Area (sq. ft.)	Area (sq. m.)	Area (sq. ft.)	Area (sq. m.)	Area (sq. ft.)	Area (sq. m.)
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2	1,174.25	108.25	1,174.25	108.25	1,174.25	108.25	1,174.25	108.25	1,174.25	108.25
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77	1,174.25	108.25	1,174.25	108.25	1,174.25	108.25	1,174.25	108.25	1,174.25	108.25
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83	1,174.25	108.25	1,174.25	108.25	1,174.25	108.25	1,174.25	108.25	1,174.25	108.25
84	1,174.25	108.25	1,174.25	108.25	1,174.25	108.25	1,174.25	108.25	1,174.25	108

F O R A C T I O N

8a(ii)

FROM: Department of Engineering

DATE : May 4, 1987

TO: Planning and Development Committee

Refer to File No.: S719-46

Attention of : K. A. Brenner

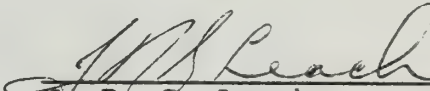
Your File No. : _____

SUBJECT

"STRAWBERRY HILL ADDITION", Hamilton
(Cash Payment in Lieu of 5% Parkland Dedication)

RECOMMENDATION

The Corporation of the City of Hamilton accept the sum of \$4,662.81 as cash payment in lieu of 5% dedication in connection with "STRAWBERRY HILL ADDITION", Hamilton, this being the cash requirement under Section 50 of the Planning Act.



J. R. G. Leach
Commissioner of Engineering

BACKGROUND

The owners of the lands for the above referenced subdivision will be executing a Subdivision Agreement with the City of Hamilton in the near future. A copy of the Final Survey Plan is attached for your information.

In accordance with normal City procedures, the City and Regional staff have completed the calculations for the 5% cash payment in lieu of Parkland dedication. The sum to be included in the Subdivision Agreement has been calculated to be \$4,662.81.

*Note: These lands are located east of Lake Avenue and north of Queenston Road in the Riverdale East Neighbourhood, Hamilton.

 DVC:lj

cc : D. Consoli, City Treasury Dept.
cc : P. Shen, City Solicitor's Office

PLAN 62M

CITY OF HAMILTON
REGIONAL MUNICIPALITY OF HAMILTON - WENTWORTH



R. J. Clark O.L.S. 1986

Surveyor's Certificate:

[illegible]

Legend:

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4	821.25	6	646.11
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Amor's Corollae:

1. LIES IN THE (DARK ALLEYS), THE STREET LIGHTS CAN ONLY
 2. THE DARK STREET IS LIGHT BROWN AS A PINK LIGHT

REPORT FROM _____ DATE OF _____

CLUB POLICE SOCIETY

 $\chi^2_{(0.975)} = 0.0044$

A. J. Clarke & Associates
ENGINEERS & SURVEYORS
SUVA, FIJI (BY AIR)

F O R A C T I O N

9

FROM Planning and Development Department

DATE April 2, 1987

TO Planning and Development Committee

Refer To File No. CI-87-D

ST. CLAIR
NEIGHBOURHOOD

Attention Of V. J. Abraham

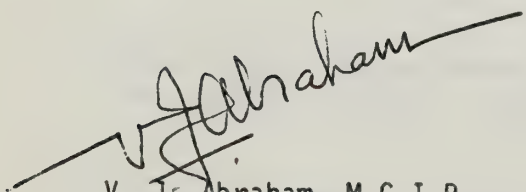
SUBJECT

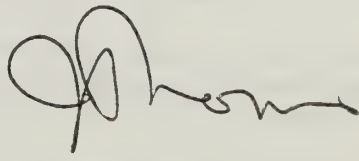
St. Clair Heritage District - Zoning By-Law Amendment.

RECOMMENDATION

That approval be given to City Initiative 87-D requesting a modification to the "C") (Urban Protected Residential) District provisions to prohibit the conversion of single family dwellings to two family dwellings for the properties located within the St. Clair Heritage District, shown on the attached map marked as APPENDIX "A", on the following basis:

- i) That the "C" (Urban Protected Residential, etc.) District regulations as contained in Section 9 of Zoning By-Law No. 6593, applicable to the subject lands outlined in Appendix "A", be modified to include the following variance as a special requirement.
 - a) That notwithstanding Section 9.(1), Section 9(1)(ii) shall not apply.
- ii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S- , and that the subject lands on Zoning District Map E-23 be notated S- ;
- iii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-23;
- iv) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.


V. J. Abraham, M.C.I.P.
Director of Local Planning


J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development

EXPLANATORY NOTE

The effect of this By-law is to provide for a modification to the "C" (Urban Protected Residential, etc.) District for the single-family properties located within the St. Clair Heritage District, as shown on the attached map marked as APPENDIX "A".

The purpose of the modification is to prohibit the conversion of single family dwellings into two family dwellings.

BACKGROUND

Heritage Conservation District

Hamilton's first Heritage Conservation District was designated under the Ontario Heritage Act in October 1986. The policies adopted by Council included:

1. residential uses should reflect the original use of the buildings; and
2. no new conversions be allowed.

The purpose of the policies are to:

1. retain the predominantly single family nature of the street which is the historical use; and
2. discourage alterations such as fire escapes, additions, more parking, etc.

Proposed Zoning

Under the "C" District provisions, a single-family home can be converted into two Class A dwelling units provided that:

- a) the floor area of each unit is not less than 65 m² (699.65 sq. ft.).
- b) the dwelling was built prior to July 25, 1940.

The intent of the amendment is to retain the predominantly single family nature of the street by prohibiting conversions of those dwellings into duplexes.

The proposed By-law is in conformity with the Official Plan.

Survey

A survey of owners was undertaken during January 1987 and the results were as follows:

Questionnaires circulated	21
Owners in favour	9
Owners opposed	4
No reply	<u>8</u>
	21

Those directly affected:

Owners in favour	8
Owners opposed	3
No reply	<u>5</u>
	16

(See attached map, Appendix A).

Process

On February 4, 1987 the St. Clair Heritage District Advisory Committee recommended that the zoning amendment proceed. On February 23, 1987, LACAC endorsed the proposal.

On March 11th, the Planning and Development Committee directed the Planning and Development Department to proceed with a City Initiated Zoning By-law amendment to prohibit the conversion of single-family dwellings to two family dwellings for the properties located within the St. Clair Heritage District.

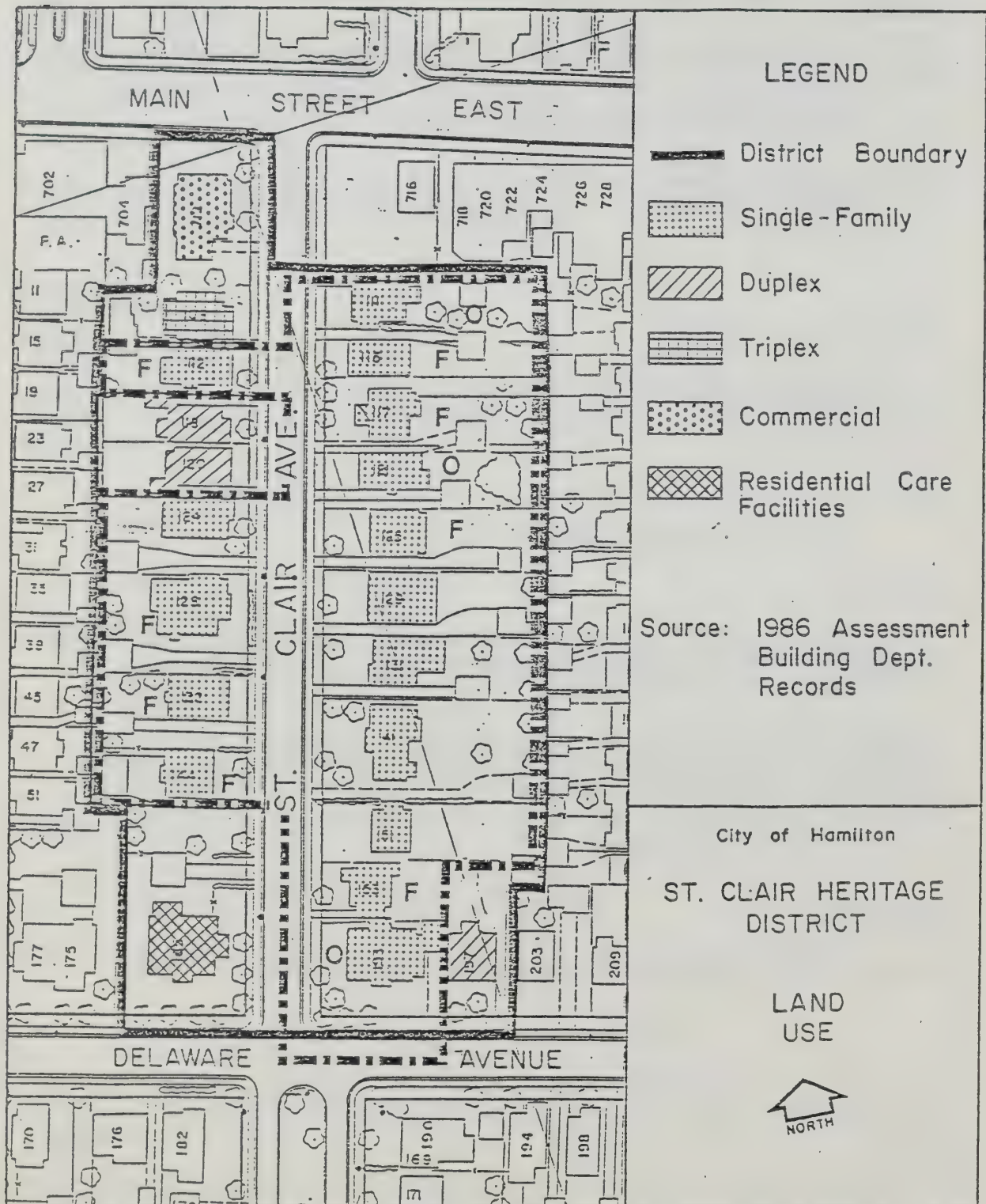
CONCLUSION

Based on the foregoing, the proposal can be supported.

D.G.:nd

W.P. DOC. 0426P

PROPOSED ZONING TO RESTRICT DUPLEXES



■■■■ Area Affected

F In Favour of Proposal

O Opposed to Proposal

FOR ACTION

10.

FROM Planning and Development Department

DATE April 28, 1987

TO Planning and Development Committee

Refer To File No. ZA-87-26

BUTLER
NEIGHBOURHOOD

Attention Of V. J. Abraham

SUBJECT

Request for a change in zoning for lands on the south side of Beaverton Drive and east of Acadia Drive, as shown on the attached map on the following basis:

Block 1 - Change from "AA" (Agricultural) District to "R-4" (Small Lot Single-Family Detached District.

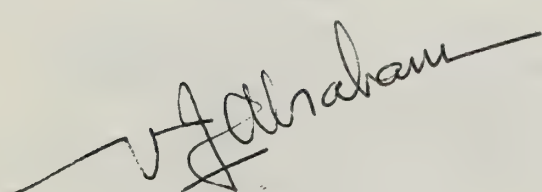
Block 2 - Change from "C" (Urban Protected Residential, etc.) District to R-4 (Small Lot Single-Family Detached) District.

The purpose of the change in zoning is to permit the subdivision of the subject lands into building lots for "small lot" single-family detached dwellings.

RECOMMENDATION

That Zoning Application 87-26 Millen Construction Company Limited, owner, requesting a change in zoning from "AA" (Agricultural) District and "C" (Urban Protected Residential, etc.) District to "R-4" (Small Lot Single Family Detached) District for lands on the south side of Beaverton Drive and east of Acadia Drive as shown on the attached plan marked as APPENDIX "A", be denied for the following reasons:

- i) the proposal conflicts with the Official Plan in that it is premature as full municipal services will not be available at this location for at least two years;
- ii) development of the proposed 15 lots should be by way of a draft plan of subdivision as opposed to land severances. In this regard, it is noted that the applicant recently withdrew his application for a draft plan of subdivision.


V. J. Abraham, M.C.I.P.
Director of Local Planning

J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development

APPLICANT

Millen Construction Limited owner.

LOT SIZE AND AREA

- 156.76 m (514.33 ft.) of lot frontage adjacent to Beaverton Drive;
- 29.87 m (98.00 ft.) of lot depth; and
- 4,673.45 m² (50,306.3 sq. ft.) of lot area.

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject lands</u>	Vacant	"AA" (Agricultural District and "C" (Urban Protected Residential, etc.) District
<u>Surrounding lands</u>		
To the north and south	Large single-family dwelling lots	"AA" (Agricultural District and "C" (Urban Protected Residential, etc.) District
To the east	Single family dwellings	"C" (Urban Protected Residential, etc.) District
To the west	A single family dwelling, Southmount Secondary School and vacant lands	"AA" (Agricultural) District

BACKGROUND

On October 22, 1986 the applicant's agent advised the Regional Planning and Development Department, Land Development Section Plans Administration Division that the proposed Draft Plan of Subdivision was being withdrawn. Consequently, Regional File No. 25T-86012 was closed.

COMMENTS RECEIVED

- The Building Department, Traffic Department and the Hamilton Region Conservation Authority have no comments or objections to the approval of the application.

- The Hamilton-Wentworth Engineering Department has advised that:
"details of servicing will be dealt with through a subdivision agreement within 1-2 years. Public watermains are available to service the subject lands.

The City of Hamilton owns a 0.305 m (1 foot wide strip of land which separates the north and west limits adjacent to these lands. We recommend that the applicant acquire this 1 foot reserve from the City of Hamilton."

COMMENTS

1. The proposal conflicts with Subsection A.3.4 - Division of Land of the Official Plan which states as follows:

"3.4.1 In accordance with the intent of the Regional Official Plan, consents to sever individual parcels of land within the City will generally be discouraged and limited in accordance with the following provisions:

i) Severances to create new lots where adequate municipal sewer and water services are not available will be discouraged (O.P.A. No. 5);

ii) Severances will be discouraged which do not comply with the Development and Servicing Extension policies of Subsection B.1 and the severance policies of the Regional Official Plan.
2. The proposal complies with the intent of the approved Butler Neighbourhood Plan.
3. On the basis of information provided by the Hamilton-Wentworth Engineering Department full municipal services will not be available at this location for between one and two years.
4. Development of the lands for single family dwellings should proceed by way of a draft plan of subdivision as opposed to development on a piece meal basis through individual land severances.
5. Approval of the application would establish an undesirable precedent and set the stage for future similar applications in this area.

CONCLUSION

On the basis of the foregoing, the application is considered to be premature and should be denied.

G.A.W.:nd

W.P. DOC. 0472P

11.

FROM	<u>Planning and Development Department</u>	DATE	<u>April 27, 1987</u>
TO	<u>Planning and Development Committee</u>	Refer to File No.	<u>ZA-87-27</u> <u>SUMMERHILL</u> <u>NEIGHBOURHOOD</u>
		Attention Of	<u>V. J. Abraham</u>

SUBJECT

Request for a modification to the established "C" (Urban Protected Residential, etc.) District regulations for property at No. 1019 Fennell Avenue East. The purpose of the proposed modification is to permit hairdressing as a home occupation, operated by one person (the owner) living on the premises.

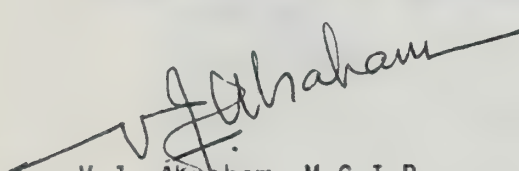
RECOMMENDATION

That approval be given to ZA-87-27, Enrico and Karen Corsini, owners,
requesting a modification to the "C" (Urban Protected Residential, etc.)
District provisions, to permit a hairdressing salon to be operated by the
applicant as a home occupation, for property located at 1019 Fennell Avenue
East, as shown on the attached map marked as Appendix "A" on the following
basis:

- i) That the "C" (Urban Protected Residential, etc.) District regulations as contained in Section 9 of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements:
 - a) Notwithstanding paragraphs (f) and (h) of Section 2.(2).H.(iii), hairdressing shall be permitted as a home occupation on the following basis:
 - 1) It is carried on by not more than one hairdresser having a principal and permanent place of residence on the premises; and,
 - 2) There is not more than one comb-out centre and one styling sink.
- ii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S- , and that the subject lands on Zoning District Map E-47 be notated S- ;
- iii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-Law No. 6593 and Zoning District Map E-47; and,
- iv) That the proposed change in zoning is in conformity with the Official Plan of the City of Hamilton.

EXPLANATORY NOTE

The purpose of this By-law is to permit a hairdressing salon for one hairdresser only to be operated from the residence as a home occupation.


V.J. Abraham, M.C.I.P.
Director of Local Planning

J.D. Thoms, M.C.I.P.
Commissioner
Planning & Development

APPLICANT

Enrico and Karen Corsini, owner.

LOT SIZE AND AREA

- 14.80 m (48.56 ft) of lot frontage on Fennell Avenue East;
- 32.9 m (108.00 ft) of average lot depth; and
- 487.23 m² (5,244 sq. ft.) of lot area.

LAND USE AND ZONING

	<u>EXISTING LAND USE</u>	<u>EXISTING ZONING</u>
<u>SUBJECT LANDS</u>	1-1/2 storey single-family dwelling	"C" (Urban Protected Residential, etc.) District
<u>SURROUNDING LANDS</u>		
to the north, south, east and west	single-family dwellings	"C" (Urban Protected Residential, etc.) District

OFFICIAL PLAN

Designated "Residential" on Schedule "A" the Land Use Concept Plan of the Official Plan.

Policy A.2.1.4 permits "Home Occupations" in residentially designated areas provided:

- i) A Home Occupation will be carried on within a dwelling unit only by an owner occupying the dwelling;
- ii) A Home Occupation will occupy only a limited floor area of the dwelling; and,
- iii) The Home Occupation will not detract from the RESIDENTIAL character of the area.

On the basis of the foregoing, the proposal complies with the Official Plan.

NEIGHBOURHOOD PLAN

A Neighbourhood Plan is not available for the Summerhill Neighbourhood.

BACKGROUND

Mr. Corsini, one of the applicants, by way of a letter of inquiry, dated November 19th, 1986, advised that he has operated a beauty salon for the past five years at number 558 Upper Gage Avenue. However, because of medical reasons, it is his intention to dispose of the commercial beauty salon and carry on the business on a part-time basis from the house which he recently acquired at number 1019 Fennell Avenue East. In response to the inquiry the Planning and Development Department advised Mr. Corsini that Section 2.(2)H(iii) of the Zoning By-law specifically excludes hairdressers and barbers as home occupations. Notwithstanding this regulation, City Council have in certain cases approved Zoning modifications to allow such home occupation uses.

COMMENTS RECEIVED

- The Building Department has advised that:
"The proposed use is contrary to Section 2(2)H.(iii) (f) and (h) of By-law No. 6593."
- The Traffic Department and The Hamilton Region Conservation Authority have no objections.

- o The Hamilton-Wentworth Engineering Department has advised that:

"Public watermains as well as separate storm and sanitary sewers are available to service the subject lands.

There are no further road widenings anticipated at this time.

Any work within the Fennell Avenue Road allowance as widened, must conform to the Region's Roads Use By-law."

COMMENTS

1. The proposal would not conflict with the intent of the Official Plan.
2. The Planning and Development Committee and City Council have approved a number of zoning applications to establish hairdressing as a home occupation. Each operation was limited to one hairdresser living on the premises, one comb-out centre and one sink.

The size limitation placed on hairdressing as a home occupation has effectively reduced the problems associated with this use. The Building, Health and Traffic Departments have received no complaints respecting these facilities.

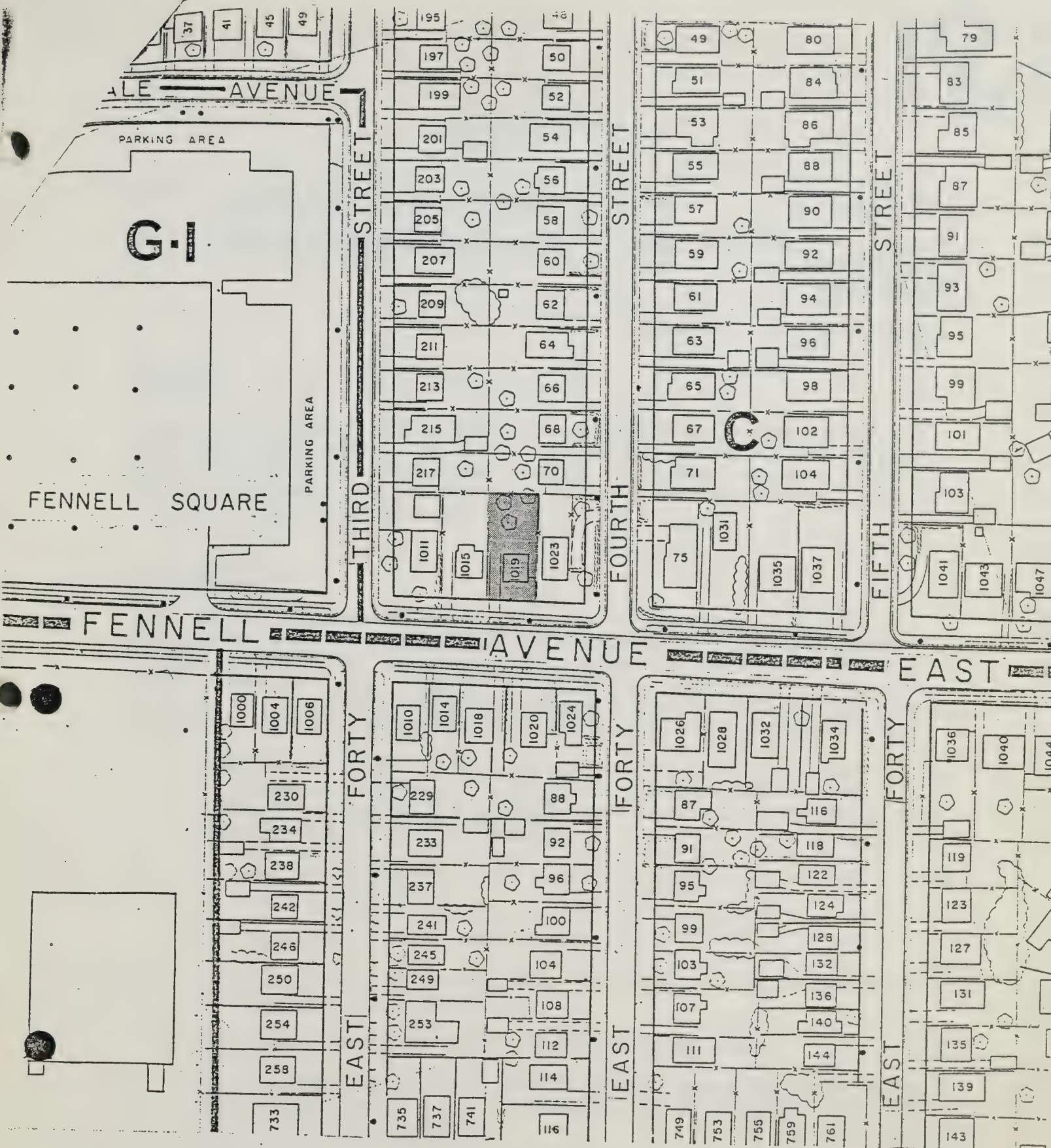
3. The proposal has merit and warrants further consideration for the following reasons:
 - a) the business is only part-time in nature and is primarily related to the walk-in trade from area residents;
 - b) the proposal should not adversely affect the demand for on-street parking in this area;
 - c) the business would not alter the residential character of the existing dwelling;
 - d) the home occupation use is confined to the existing dwelling which is situated on the periphery of the neighbourhood or an arterial road as opposed to being situated within the centre of the neighbourhood.

CONCLUSION

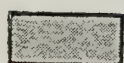
Based on the foregoing, the proposal can be supported.

GW:lm

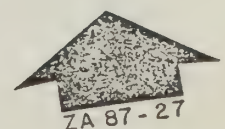
W.P. DOC. No. 0478 (1-4)



LEGEND



SITE OF THE APPLICATION



FOR ACTION

12.

FROM Planning and Development Department DATE May 6, 1987
TO Planning and Development Committee Refer to File No. ZA-87-35
WESTDALE SOUTH
NEIGHBOURHOOD
Attention Of V. J. Abraham

SUBJECT

Request for a modification to the "H" (Community Shopping and Commercial, etc.) District provisions for the property located at No. 649 Main Street West. The purpose of the proposed rezoning is to permit the development of the subject lands for a two-storey 58-unit motel and accessory restaurant use catering to motel patrons only.

RECOMMENDATION

That approval be given to Zoning Application 87-35, Vince Tandarich, prospective owner requesting a modification to the "H" (Community Shopping and Commercial, etc.) District provisions, to permit the development of the subject lands for a two-storey 58-unit motel, and accessory restaurant use catering to patrons only, for the property located at No. 649 Main Street West, as shown on the attached map marked as Appendix "A", on the following basis:

- i) That the "H" (Community Shopping and Commercial, etc.) District provisions as contained in Section 14 of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variance as a special requirement;
 - a) That notwithstanding Section 14.(1), the following residential uses shall be permitted:
 - 1) hotel, motel or motor hotel.
- ii) That notwithstanding Section 18A.(1)(a) the parking requirements for the restaurant use shall not apply.
- iii) That Sections 18A.(36)(1.) (a) and (2.) shall not apply;
- iv) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S- , and that the subject lands on Zoning District Map W-23 be notated S- ;
- v) That the City Solicitor be directed to prepare a By-law to amend zoning By-law No. 6593 and Zoning District Map W-23;
- vi) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning area.

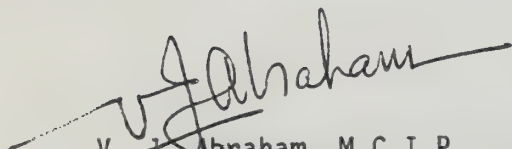
EXPLANATORY NOTE

The purpose of this By-law is to provide for a modification to the "H" (Community Shopping and Commercial, etc.) District provisions, for the property located at No. 649 Main Street West, as shown on the attached map marked as Appendix "A".

The effect of this By-law is to permit the development of the subject lands for a two-storey 58-unit motel and accessory restaurant use catering to patrons only.

In Addition the By-law requires the following variance:

- o to exempt the development from the parking and access requirements for a restaurant (Sections 18A.(36)(10)(a) and 18A.(i)(9)); and,
- o to permit the location to the proposed accessory restaurant use within 30 m of a residential district (Section (18A.) (36)(2.)).


V. D. Abraham, M.C.I.P.
Director of Local Planning

J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development

APPLICANT

Vince Tandarich, owner.

LOT SIZE AND ZONING

It is an irregularly shaped lot having:

- o 85.69 m (281.15 ft.) of lot frontage;
- o 0.51 ha (1.15 ac) of lot area.

LAND USE AND ZONING

	<u>EXISTING LAND USE</u>	<u>EXISTING ZONING</u>
<u>SUBJECT LANDS</u>	vacant	"H" (Community Shopping and Commercial, etc.) District

SURROUNDINGS LANDS

to the north	15-storey apartment building	"E" (Multiple Dwellings, Lodges, Clubs, etc.) District
to the south and east	Highway 403	"K" (Heavy Industry) District
to the west	Industry and Commercial	"H" (Community Shopping and Commercial, etc.) District

OFFICIAL PLAN

The subject lands are designated "Commercial", the proposal complies.

NEIGHBOURHOOD PLAN

There is no approved Plan for the Westdale South Neighbourhood.

COMMENTS RECEIVED

- o The Building Department Hamilton Region Conservation Authority have no comments or objections.
- o The Hamilton-Wentworth Engineering Department has in part advised that:
"Details of the accesses can be finalized at the site plan stage, however, previous review indicates that access to the subject lands was to be located towards the middle or east portion of the subject lands to avoid overlaps with the driveway immediately west of the west lot line. Furthermore, we also note the minimum setback of buildings from Main Street West road allowance should be three meters so as to ensure adequate sight distances. All landscaping in the vicinity of the accesses onto Main Street or in the boulevard is not to exceed 0.80 meters (30 inches) in height to ensure adequate motorist visibility in the access for motorists entering Main Street." (See attached letter for full comments.)
- o The Traffic Department has advised in part that:
"A detailed review of the site plan for this development will take place at the site plan control stage of the development. Our review of the preliminary plan indicates that modification will be required to provide adequate maneuvering for service and emergency vehicles."
- o The Ministry of Transportation and Communications have advised that:
"Although this Ministry has no objection to the proposed rezoning, we will require that all access be restricted to Main Street West."

This Ministry will require all buildings to be setback a minimum distance of 14m (45 ft.) from our highway property line. Permits are required for all buildings, signs and illumination located within 46 m (150 ft.) from our property line prior to any construction being undertaken.

In addition, we will require that a site/grading/draining plan be submitted to our district office for their review prior to the issuance of permits."

COMMENTS

1. The proposal complies with the Official Plan.
2. There is no approved Neighbourhood Plan for the Westdale South Neighbourhood.
3. The proposal merits consideration for the following reasons:
 - a) it is located on a major arterial road (Main Street West);
 - b) it is compatible with the surrounding land uses including commercial to the west and a highrise apartment building to the north;
 - c) the location is highly accessible and visible from both Main Street West and Highway 403.
4. Approval of the Application would require the following variances:
 - o Parking for Restaurants (Section 18A)

The By-law requires one parking space for every six persons lawfully accommodated. However, the applicant has indicated that the restaurant contained within the motel is not a restaurant, per se, but rather a "dining area" for use by motel patrons only. The "dining area" will be open for breakfast only (7 a.m. - 10 a.m.). In this regard, the variance may be supported.
 - o Requirements for Restaurants in "H" District (Section 18A)

The By-law requires that all points of ingress and egress must be no closer than 30.0 m from a residential district. On the northside of Main Street West, opposite the proposed motel site, there is a residential district ("E-2"). The ingress and egress points do not appear to affect the residential district since the Zones are separated by a five-lane arterial road. On this basis, the variance may be supported.
5. Under the "H" District provisions, properties are not normally subject to Site Plan Control. However, By-law 82-220 placed the subject lands under Site Plan Control. Matters such as parking, landscaping, access etc. will be reviewed during the site plan approval process. If additional variances are identified at the site plan stage, the applicant will be required to apply to the Committee of Adjustment for relief.

CONCLUSION

Based on the foregoing, the proposal can be supported.

JH:lm
W.P. DOC. No. 0476P

**THE CORPORATION OF THE CITY OF HAMILTON**

PLANNING AND DEVELOPMENT COMMITTEE

PUBLIC MEETING OF THE PLANNING AND DEVELOPMENT COMMITTEE

Application has been received from Y. Tandarich, prospective owner, for a modification to the "H" (Community Shopping and Commercial, etc.) District regulations for property municipally known as No. 649 Main Street West, as shown on the attached map.

The purpose of the proposed modification is to permit development of the subject property for a 2 storey motel, containing 58 units and a restaurant. Parking for 60 cars will be provided on site.

The application complies with the City of Hamilton Official Plan.

It is requested that you complete and return the enclosed business reply card indicating your support or opposition to the proposed change. You may also submit additional comments in writing.

The Planning and Development Committee will consider this matter at a Public Meeting to be held in Room 233, City Hall on Wednesday, May 13, 1987 at 3:15 p.m. and you are invited to attend at that time.

Secretary
Planning and Development Committee

For Inquiries, please call
Planning and Development Department
City Hall 526-4445

/jd

April 24, 1987



THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

Department of Engineering

71 Main Street West, Hamilton, Ont. L8N 3T4

PLANNING LOCAL		24-87-35		APR 27 1987	
TO	INT.	INFO.	ACT.		
PP & A.					
NEIGH.					
✓ DEV.					
E & U.D.					
✓ STAFF					
CART.					

Refer to File No. E220-2303

Attention of K. A. Brenner

Your File No. ZA-87-35

I.D. #0134D(43)

April 21, 1987

TO: V. J. Abraham, Director, Planning Department

FROM: K. A. Brenner, Engineering Department

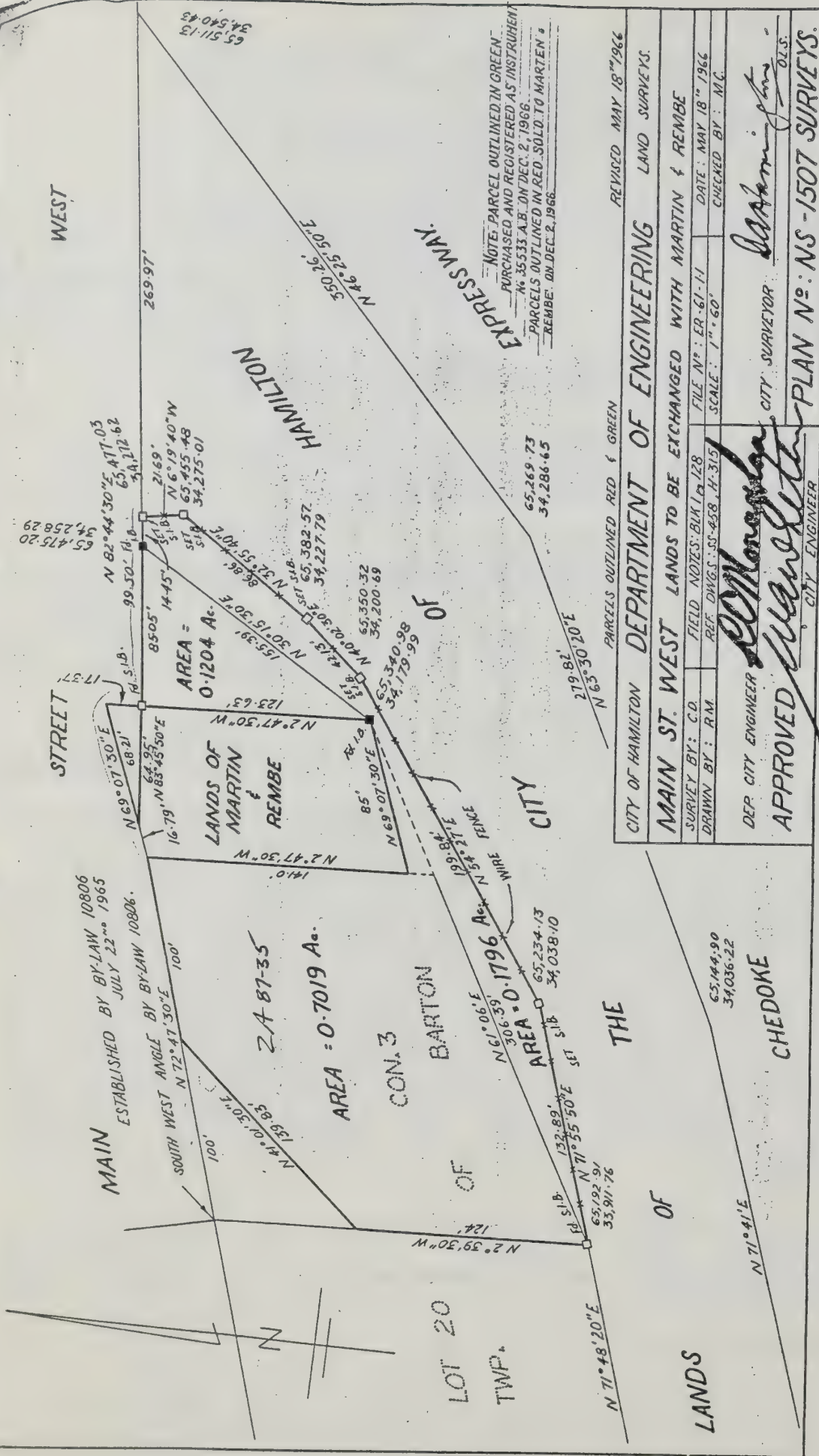
RE: Zoning Applications ZA-87-35 for a Modification to
"H" District for Property Located at 649 Main Street West

Please be advised that public watermains as well as combined storm and sanitary sewers are available to service the subject lands.

For the applicant's information:

- we do not anticipate any further road allowance widenings;
- any work within the Main Street road allowance must conform to the Region's Roads Use By-Law;
- details of the accesses can be finalized at the site plan stage, however, previous review indicates that access to the subject lands was to be located towards the middle or east portion of the subject lands to avoid overlaps with the driveway immediately west of the west lot line. Furthermore, we also note that the minimum setback of buildings from Main Street West road allowance should be 3 meters so as to ensure adequate sight distances. All landscaping in the vicinity of the accesses onto Main Street or in the boulevard is not to exceed 0.80 meters (30 inches) in height to ensure adequate motorist visibility in the access for motorists entering Main Street.
- as the subject lands are adjacent to Highway 403, we recommend that comments from the Ministry of Transportation and Communications be taken into consideration.

TLH:mp
Encl.



13

FOR ACTION

FROM Planning and Development Department

DATE May 7, 1987

TO Planning and Development Committee

Refer To File No. ZA-87-37

Attention Of V. J. Abraham

SUBJECT

Request for a change in zoning from "E" (Multiple Dwellings, Lodges, Clubs, etc.) District to "E-3" (High Density Multiple Dwellings) District, modified, for property located on the southwest corner of Robinson Street and Park Street South, to permit a residential development consisting of:

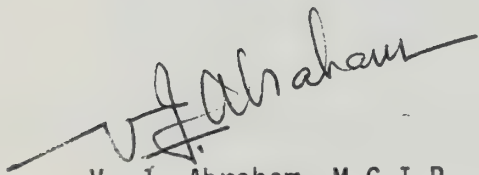
- o a 13 storey (130 ft.) apartment building containing 192 units fronting on Robinson Street; and,
- o two 2 storey townhouse buildings, containing four units each, fronting on Charlton Avenue.

The proposed apartment building includes an enclosed atrium which extends the full height of the building, an indoor recreational area, landscaping on the roof of the first floor parking level, indoor parking, and direct access to the Thistle Club facilities.

RECOMMENDATION

1. That Zoning Application 87-37, Thistle Club of Hamilton, owner, for a change in zoning from "E" (Multiple Dwellings, Lodges, Clubs, etc.) District to "E-3" (High Density Multiple Dwellings) District, modified, to permit a high rise residential development and two townhouse blocks, as shown on the attached map marked as APPENDIX "A" be denied for the following reasons:
 - i) it represents an over-intensification of land use on the site, since the proposed gross floor area ratio of 2.84 would exceed the maximum permitted ratio of 1.7 for the existing "E" District, which is more appropriate for the development. The proposed gross floor area ratio of 2.84 would even exceed the maximum permitted ratio of 2.55 for the "E-3" District.
 - ii) the height of the proposed structure, 14 storeys, (13 storeys of residential plus one storey of parking) would exceed the maximum 8 storey height for buildings located within an "E" or "E-3" District which are within 30.0 m (98.43 ft.) of a "C" District. The proposed building would also exceed the height of the surrounding residential buildings, which vary from 3 to 11 storeys in height.

- iii) the landscaped area would be only 9% of the total lot area, which does not satisfy the 40% at grade landscaping requirement in the by-law.
- iv) the proposed building would differ significantly in character and design from the surrounding development.
- v) the proposal would set a precedent for future similar applications.



V. J. Abraham, M.C.I.P.
Director of Local Planning

J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development

APPLICANT

Thistle Club of Hamilton, owner, George L. Schneider, Agent and Consulting Engineering and Architect.

LOT SIZE AND AREA

The property is irregular in shape and has:

- o a frontage of 86.43 m (283.50 ft.) on Robinson Street;
- o a lot depth of 94.31 m (309.35 ft.) on Park Street South; and
- o a lot area of 7,851 m² (84,510 sq. ft.).

LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject lands</u>	Hamilton Thistle Club consisting of a two-storey building, curling rink and parking lot	"E" (Multiple Dwellings, Lodges, Clubs, etc.) District
<u>Surrounding Lands</u>		
To the north	Apartment buildings (8 and 11 storeys)	"E-3" (High Density Multiple Dwelling) District
To the south	Durand Park - public open space - and two single family homes	"E" (Multiple Dwellings, Lodges, Clubs, etc.)

To the east	Hamilton Officers Club and dwellings converted to office use	"C" (Urban Protected Residential, etc.) District - modified, and "E" (Multiple Dwellings, Lodge, Clubs, etc.) District
To the west	Single, double and multiple family residential dwellings	"E" (Multiple Dwelling, Lodges, Clubs, etc.) District

OFFICIAL PLAN

Designated "Major Institutional" on Schedule "A", the proposal complies with the intent of the Official Plan.

The subject lands are also located within Special Policy Area 3, as designated on Schedule "B", which provides for the protection and promotion of housing within the central area.

NEIGHBOURHOOD PLAN

The Durand Neighbourhood Plan would require an amendment from "Civic and Institutional" to "High Density Apartments" to permit the proposal.

RESULTS OF CIRCULARIZATION

- o The Building Department advises that the proposal would not meet with the requirements of the "E-3" District regulations, for the following reasons:
1. The proposed building height of 13 storey residential plus one storey parking would exceed the maximum permitted in Section 11c(1a). The adjacent "C" modified district to the east would mean that the maximum permitted height for the subject lands would be 8 storeys.
 2. The proposed floor area ratio of 2.84 would exceed the maximum of 2.55 permitted in Section 11c(4).
 3. The yards are contrary to those permitted in Section 11c(2). The side yards of 1.5 m are inadequate for the townhouse block, considering the height and width of the overall structure which includes the apartment building and attached townhouses.
 4. The landscaped area may be contrary to that required in Sections 11c(5) and 2(2) J(xb). The applicant's calculation of 66% landscaping includes areas on the roof of the parking podium and the Club roof, which do not qualify as acceptable landscaped areas. The actual landscaped area is only 9%, which does not satisfy the 40% landscaping requirement in the by-law.

5. The townhouses may not be as defined in Section 2(2)A (viib), since they are attached to the apartment building by means of the parking garage. The yard and parking requirements therefore become the same as for the apartment building.
 6. The parking requirements include:
 - 0.8 spaces per unit of multiple residential dwelling, including visitors, as per Table 1 and Section 18A(1)(b);
 - 1.0 space per 6 persons for private club, as per Table 1 and Section 3(C);
 - loading spaces as per Table 3, Section 18A.
- o The Traffic Department has no objection.
- o The Hamilton Region Conservation Authority has no objection to the proposal.
- o The Niagara Escarpment Commission advises that they have no objection to the proposal, from a staff point of view. The proposal is not located within the area of the Niagara Escarpment Plan. The Niagara Escarpment Commission as a whole will deal with the amendment at the time of formal circulation.
- o LACAC has advised verbally that:
- they have reservations concerning the compatibility of the proposed building with existing development in the area, such as the 19th century housing, especially in terms of height, mass and character.
 - they would recommend that as much as possible of the existing facade of the original club structure (the existing curling rink) be preserved and incorporated into the design of the new structure. The Hamilton Thistle Club, built c. 1891, is listed by LACAC.
- o The Regional Engineering Department has advised that:
- public watermains as well as combined storm and sewers are available to service the subject lands.
 - there are no further road allowance widenings anticipated at this time.
 - any work within the adjacent road allowances must conform to the respective Streets By-laws. Since the applicant has not submitted any dimensioned site plans for review, either these should be submitted or the lands should be developed through site plan control. Detailed comments regarding landscaping, setbacks, grading, sight distance, etc. will be provided at that time.

- the neighbourhood plan designates the area as "Civic and Institutional", and therefore would require amendment by Committee and Council should the application be approved.

COMMENTS

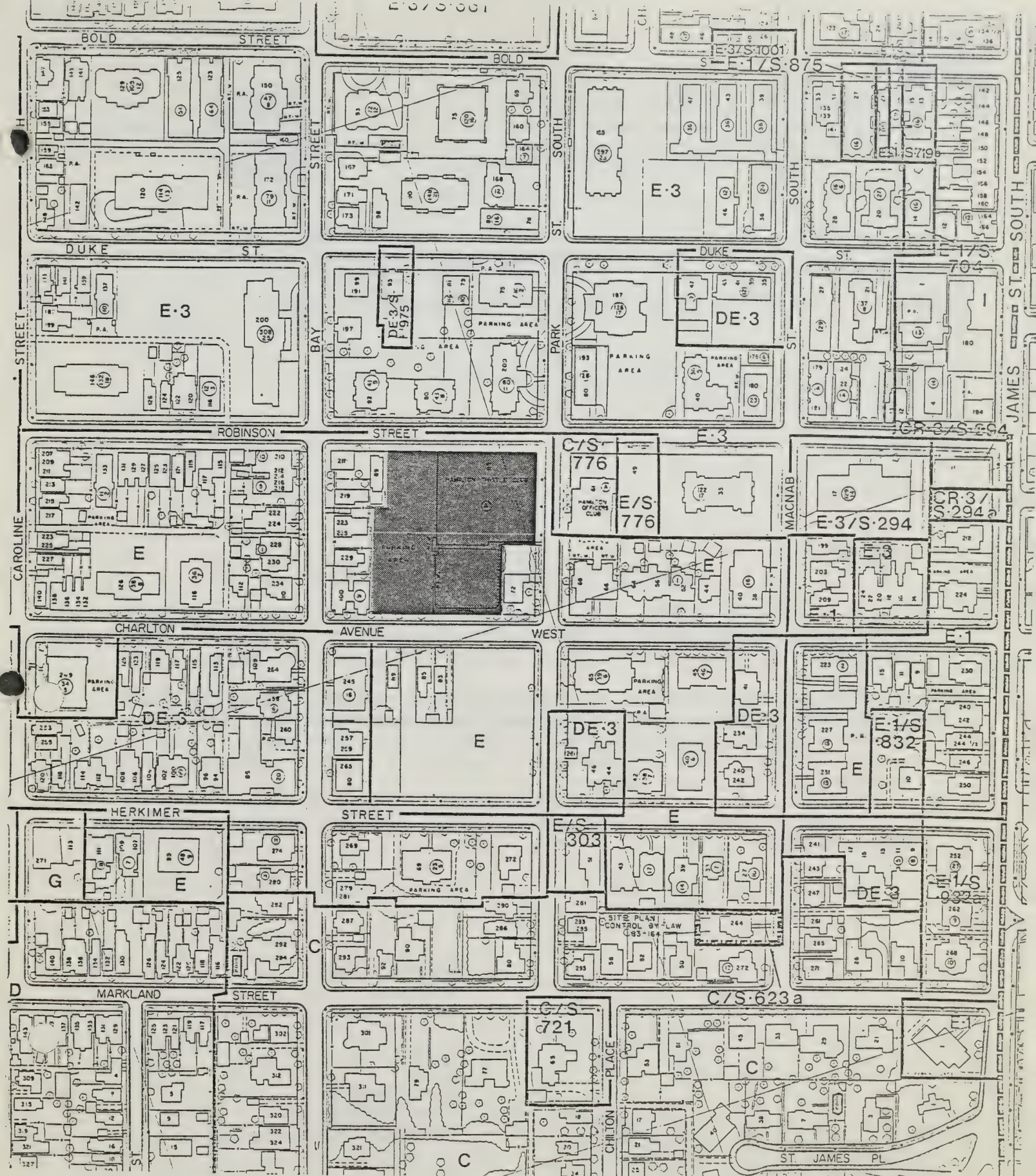
1. The proposal complies with the Official Plan and the approved Durand Neighbourhood Plan. However, an amendment from "Major Institutional" to "High Density Residential" would be required for the portion of the subject lands which will be developed for residential use.
2. The proposal has the following disadvantages:
 - i) it represents an over-intensification of development on the site, since the proposed floor area ratio of 2.84 exceeds the permitted maximum ratio of 2.55 within the "E-3" District.
 - ii) the height of the proposed structure (13 storeys of residential plus one storey of parking) is significantly greater than:
 - the 8 storey maximum height for buildings located within an "E-3" District which are within 30.0 m (98.43 ft.) of a "C" District.
 - the 8 and 11 storey apartment buildings located to the north.
 - the 3 storey low density residential buildings located to the west.
 - iii) the proposed development would differ significantly in character and design from the Thistle Club and other buildings in the vicinity. A portion of the existing Club facade may be preserved and incorporated into the design of the new structure, but this may not ensure the compatibility of the new building.
 - iv) the proposed side yard setback of 1.5 m for the east side of the townhouse block on Charlton Ave. would not be adequate. The townhouses are considered as part of the same building as the highrise apartment tower, since they are joined by means of the parking garage. Therefore, side yard setbacks would have to be increased to reflect the height and width of the overall building.

CONCLUSION

The proposed development would require a significant number of variances to the proposed "E-3" (High Density Multiple Dwelling) District regulations, for height, floor area ratio, setbacks, etc. The structure as proposed would not be compatible with the character of the surrounding development in terms of height, mass and design. It is therefore proposed that the application be denied.

V.G.:nd

W.P. DOC. 0491P

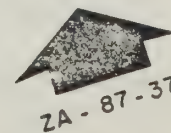


LEGEND

APPENDIX "A"



SITE OF THE APPLICATION



The
HAMILTON THISTLE CLUB

85 ROBINSON STREET • HAMILTON, ONTARIO, L8P 1Z2

CURLING • INDOOR TENNIS • SQUASH • RACQUETBALL • LAWN BOWLING



TELEPHONE

528-8913

May 5, 1987

MAY - 7 1987

Corporation of the City of Hamilton,
City Hall, Main St. West,
Hamilton, Ontario
L8N 3T4

Attention: City Clerk

Dear Sirs:

Re: Planning Department File ZA-87-37

It is our understanding that you have received an application for re-zoning of the lands presently owned by The Hamilton Thistle Club. It is also our understanding that this application purports to be by authority of The Hamilton Thistle Club.

Please be advised that no such application has been approved by the Board of Directors of The Hamilton Thistle Club. Also please be advised that no such application has been approved by the club membership, which approval would have to be voted by the membership of the club at a properly constituted general or special meeting of the members.

Therefore, we are writing to request that you give this application no further consideration.

Yours truly,

Chaplin Wright
Chaplin Wright,
President,
The Hamilton Thistle Club

David Beaudoin
David Beaudoin,
Vice-President,
The Hamilton Thistle Club

c.c. Planning & Development Department,
City Hall

✓ Secretary Planning & Development Committee
City Hall

CW/mc

14.

FOR INFORMATION

FROM	<u>Planning and Development Department</u>	DATE	<u>May 5, 1987</u>
TO	<u>Planning and Development Committee</u>	Refer to File No.	DA-86-93 DA-87-06 DA-87-14 DA-87-18 DA-87-19 <u>DA-87-23</u>
		Attention Of	V. J. Abraham

BACKGROUND

The attached Site Plan Control Applications have been approved by the Chairman of the Planning and Development Committee and the Alderman of the Ward.

JPS/jd

W.P.DOC.0390P(35)

FOR ACTION

FROM Planning and Development Department

DATE April 28, 1987

TO Planning and Development Committee

Refer to File No. DA-86-93
WEST HANNON
NEIGHBOURHOOD

Attention Of Y. J. Abraham

PROPOSAL

Plans have been submitted for construction of storage facility complex to be located at the south-west corner of Upper Ottawa Street and Rymal Road East. Access is by Upper Ottawa Street only. A total of 22 parking spaces are provided in the building and 2 loading spaces along the southerly property lines.

RECOMMENDATION

That approval be given to Site Plan Control Application DA-86-93 by 609892 Ontario Ltd., owner of lands at the south-west corner of Upper Ottawa Street and Rymal Road East for construction of a storage facility complex, subject to the following:

- 1) modification to the plan related to dimensions, notes, fencing and fire hydrant location as marked in red on the plans;
- 2) submission of a revised grading plan to the satisfaction of the Commissioner of the Hamilton-Wentworth Engineering Department;
- 3) provision of a minimum of 22 parking spaces;
- 4) modification to the plan to provide the required fire route and driveway width in accordance to the Ontario Building Code and to the satisfaction of the Fire and Building Department.

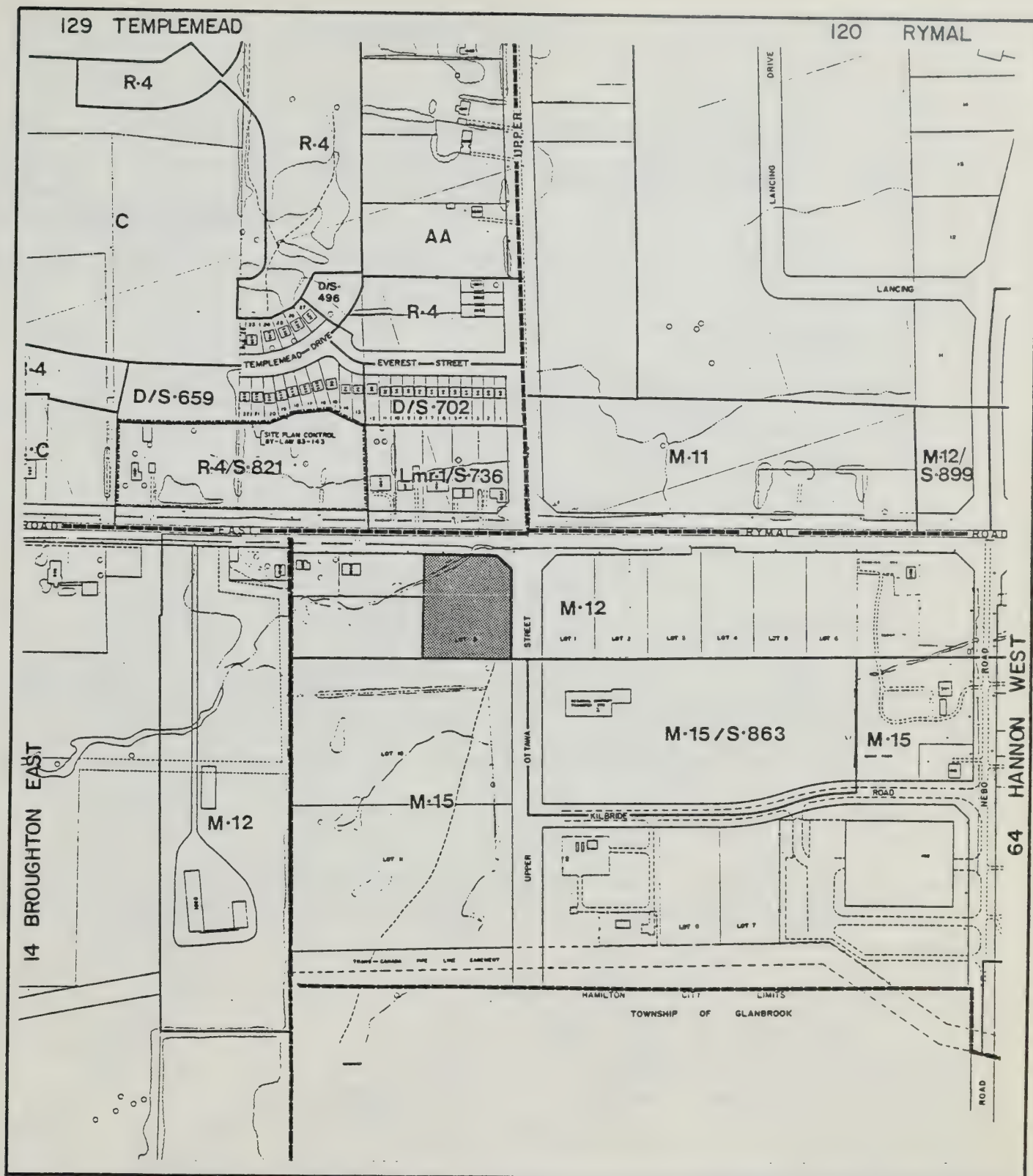
for Vladimir M. Ots
Victor J. Abraham, M.C.I.P.
Director of Local Planning

Approved On:

Alderman John Smith
Chairman and Ward Alderman

May 5/87

VJA/JPS/jd
W.P.DOC. 0390P



PLAN SHOWING
LANDS SUBJECT TO
SITE PLAN CONTROL
APPLICATION DA-86-93

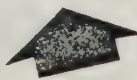
Regional Municipality of Hamilton-Wentworth
Planning and Development Department

Legend



SITE OF THE APPLICATION

North



Scale
1:5000

Date
Oct., 1986

Reference File No.
DA-86-93

Drawing No.
86-H-244

FOR ACTION

FROM Planning and Development Department

DATE April 29, 1987

TO Planning and Development Committee

Refer to File No. DA-87-06
(DA-85-01)
CORKTOWN NEIGHBOURHOOD

Attention Of V. J. Abraham

PROPOSAL

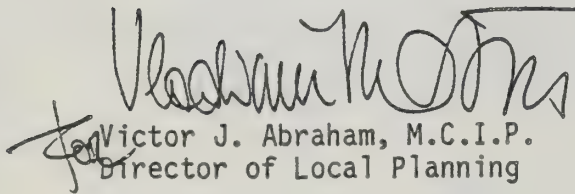
Plans have been submitted to amend approved plans of Site Plan Control Application DA-85-01 for redevelopment of St. Joseph's Hospital. The changes relate specifically to the proposed landscaped courtyard located at the north-west corner of John Street South and St. Joseph's Drive.

The changes consist of raising the lowest grade level within the courtyard by one storey thus eliminating many of the retaining walls and simplifying the plantings and walkways.

RECOMMENDATION

That approval be given to Site Plan Control Application DA-87-06 by Sisters of St. Joseph, owner of the lands bounded by Charlton Avenue East, James Street South, St. Joseph's Drive and John Street South, to amend approved plans under Site Plan Control Application DA-87-01 in regard to changes in the courtyard located at St. Joseph's Drive and John Street South subject to the following:

- (a) modification to the plans related to dimensions and notes as marked in red on the plans;
- (b) submission of a final landscape plan for the courtyard indicating the proposed plant list details to the satisfaction of the Director of the Planning and Development Department.

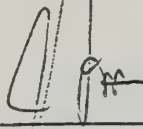

Victor J. Abraham, M.C.I.P.
Director of Local Planning

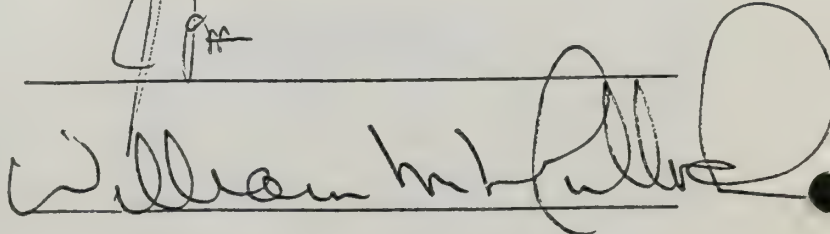
Approved On:

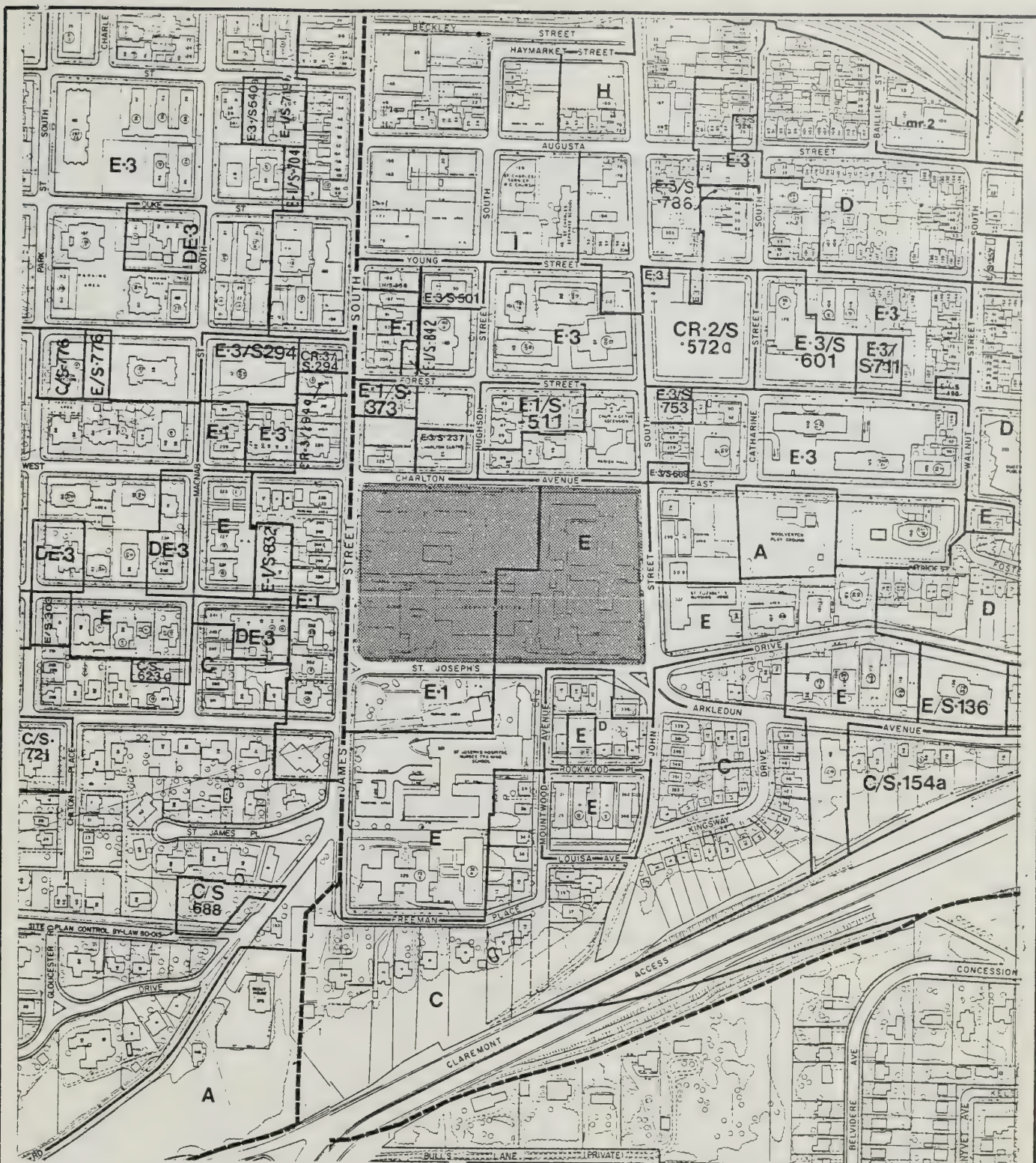
Alderman John Smith
Chairman

Alderman William McCulloch
Ward Alderman

VJA/JPS/jd
W.P.DOC.0390P


May 1/87.





DURAND No. 41

CORKTOWN No. 31

PLAN SHOWING
LANDS SUBJECT TO

SITE PLAN CONTROL
APPLICATION DA-85-01
(DA 87-02)

Regional Municipality of Hamilton-Wentworth
Planning and Development Department

Legend



SITE OF THE APPLICATION

North



Scale

1:5000

Date

JAN. 1985

Reference File No.

DA-85-01

Drawing No.

85-H-7

FOR ACTION

FROM Planning and Development Department

DATE April 10, 1987

TO Planning and Development Committee

Refer to File No. DA-87-14
(DA-82-36)
GILKSON NEIGHBOURHOOD

Attention Of V. J. Abraham

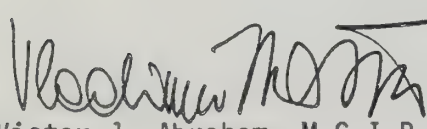
PROPOSAL

Plans have been submitted to amend approved plans under Site Plan Control Application DA-82-36 for an extension of the Co-op meeting room and office at 620 Stone Church Road West.

RECOMMENDATION

That approval be given to Site Plan Control Application DA-87-14 by Stone Church Co-operative Homes Inc., owners, of 620 Stone Church Road West to amend the approved plans of Site Plan Control Application DA-82-36, subject to the following:

- 1) modification to the plan related to dimensions and notes as marked in red on the plans;
- 2) submission of a detailed grading plan of the proposed extension to the satisfaction of the Commissioner of the Hamilton-Wentworth Engineering Department; and,
- 3) finalization of the approval by the Committee of Adjustment of the variance to permit being as close as 3.8 m (12.46 ft.) to the east lot line instead of the required 6.0 m (16.69 ft.).

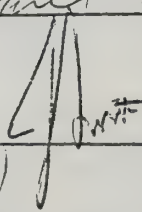
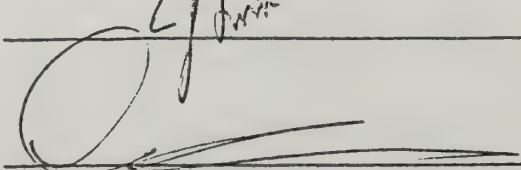

for Victor J. Abraham, M.C.I.P.
Director of Local Planning

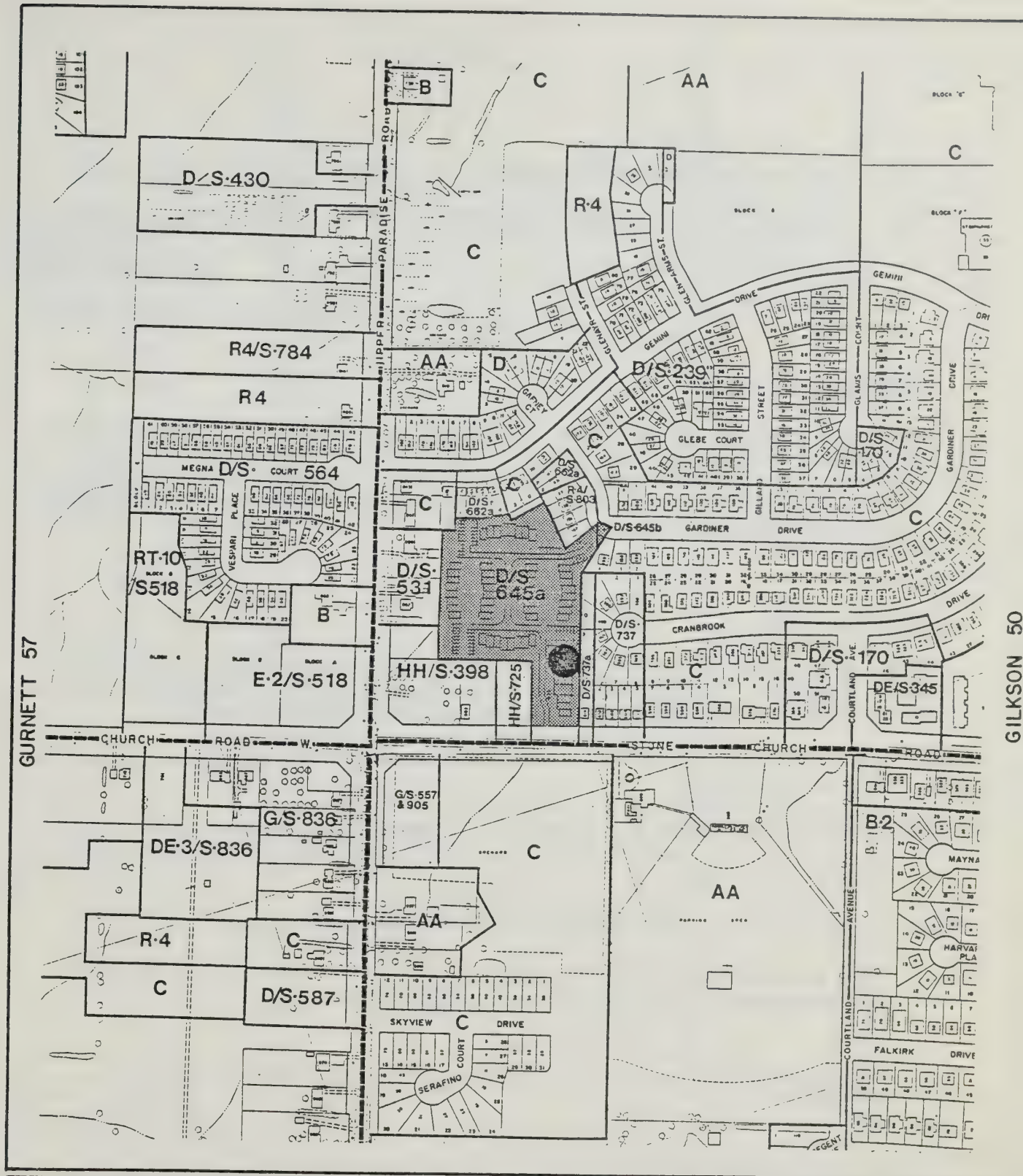
Approved On:

Alderman John Smith
Chairman and Ward Alderman

Alderman Don Ross
Ward Alderman

VJA/JPS/jd
W.P.DOC. 0390P

April 24/87.





PLAN SHOWING
LANDS SUBJECT TO
SITE PLAN CONTROL
APPLICATION DA-87-14

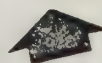
Regional Municipality of Hamilton-Wentworth
Planning and Development Department

Legend



SITE OF THE APPLICATION

North



Scale
1:5,000

Date
APRIL, 1987

Reference File No.
DA-87-14

Drawing No.
87-H-20

F O R A C T I O N

FROM Planning and Development Department

DATE May 4, 1987

TO Planning and Development Committee

Refer to File No. DA-87-18
HANNON NORTH
NEIGHBOURHOOD

Attention Of V. J. Abraham

PROPOSAL

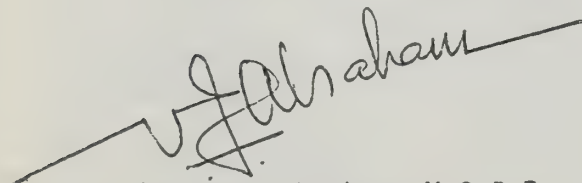
Plans have been submitted for an industrial development to be located on the south side of Stone Church Road East, east of Anchor Road. The one storey building of a decorative masonry construction will have a gross floor area of 2656.9 m ((28,600 sq.ft.). A total of 60 parking spaces are provided on the east and west sides of the building and 3 loading spaces along the westerly property line.

RECOMMENDATION

That approval be given to Site Plan Control Application DA-87-18 by Ablaka Development Ltd., owners, of lands south of Stone Church Road East, east of Anchor Road for an industrial building, subject to the following:

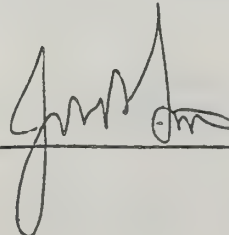
- 1) modification to the plans related to dimensions and notes, as marked in red on the plans;
- 2) modification to the elevation plan to incorporate loading doors on the westerly side of the building adjacent to the proposed loading spaces and service driveway;
- 3) modification to the plan to provide the following note:

"The proposed development provides parking for an industrial use only.
All uses must conform to the by-law restrictions."


Victor J. Abraham, M.C.I.P.
Director of Local Planning

Approved On:

Alderman John Smith
Chairman and Ward Alderman

 May 5/87.

KB/JPS/jd
W.P.DOC.0390P

FOR ACTION

FROM Planning and Development Department

DATE April 27, 1987

TO Planning and Development Committee

Refer to File No. DA-87-19
(A-87:92)

STRATHCONA NEIGHBOURHOOD

Attention Of V. J. Abraham

PROPOSAL

Plans have been submitted to develop three townhouse dwelling units on a vacant parcel of land located at 19, 21 and 23 Woodbine Crescent.

The two floor structures with basement will have a stucco finish and a parking space located in front of each unit.

RECOMMENDATION

That approval be given to Site Plan Control Application DA-87-19 by Victoria Park Community Homes, owner of the lands at 19, 21 and 23 Woodbine Crescent to develop three townhouse dwelling units subject to the following:

- (a) modification to the plan related to dimensions, notes and landscaping as marked on the plans; and,
- (b) approval by the Committee of Adjustment for the following variances:
 - i) to provide a total of three off-street parking spaces instead of the required five parking spaces; and,
 - ii) to allow these parking spaces to be provided within a front yard rather than in a side or rear yard or within the building.

Victor J. Abraham

for Victor J. Abraham, M.C.I.P.
Director of Local Planning

Approved On:

Alderman John Smith
Chairman and Ward Alderman

Alderman Terry Cooke
Ward Alderman

VJA/JPS/jd
W.P.DOC. 0390P (25)

April 29/87.

[Signature]

Terry Cooke

SITE OF THE APPLICATION

FOR ACTION

FROM Planning and Development Department

DATE April 27, 1987

TO Planning and Development Committee

Refer to File No. DA-87-23
GIBSON NEIGHBOURHOOD

Attention Of V. J. Abraham

PROPOSAL

Plans have been submitted for a four unit townhouse development to be constructed at the south-east corner of Fullerton Avenue and Princess, numbers 66 to 76 Fullerton Avenue.

The units are to have brick facing on the first level and siding on the second and third levels.


The following variances are proposed:

1. a rear yard depth of at least 3.0 m instead of the required 6.0 m minimum and a south side yard width of at least 0.162 m instead of the required 3.0 m minimum;
2. a lot depth of at least 15.85 m instead of the required 30.0 m minimum;
3. a lot area of at least 487 square metres instead of the required 1080 square metres minimum;
4. 4 off street car parking spaces instead of the required 6 minimum;
5. no required 6.0 m manoeuvring space depth for the parking space.

RECOMMENDATION

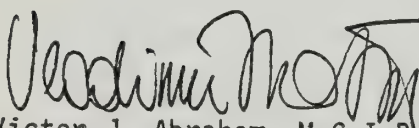
That approval be given to Site Plan Control Application DA-87-23 by Hamilton East Kiwanis Non-Profit Homes Inc., owner of the lands at 66-76 Fullerton Avenue for a four unit, three storey townhouse development subject to the following:

- (a) modification to the plan related to dimensions and notes as marked in red on the plans;
- ~~(b) reduction of the proposed front yard from 6.0 m to 3.0 m and an increase in the proposed rear yard from 3.3 m to 6.0 m;~~

BA. 

(c) approval by the Committee of Adjustment for the following variances:

- var B-4.*
- (i) a ~~front~~ yard of 3.0 m instead of the required 6.0 m minimum and a south side yard width of at least 0.162 m instead of the required 3.0 m minimum;
 - (ii) a lot depth of at least 15.85 m instead of the required 30.0 m minimum;
 - (iii) a lot area of at least 487 square metres instead of the required 1080 square metres minimum;
 - (iv) 4 off street car parking spaces instead of the required 6 minimum;
 - (v) no required 6.0 m manoeuvring space depth for the parking space;
- (d) clarification of the drainage pattern to the satisfaction of the Commissioner of the Hamilton-Wentworth Engineering Department.
- (e) submission of a survey plan or legal description of the property to the satisfaction of the Building Department at the time of a building permit.

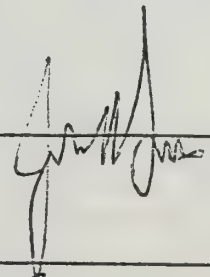
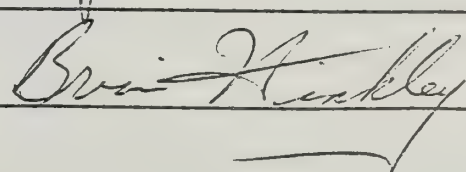

Victor J. Abraham, M.C.I.P.
Director of Local Planning

Approved On:

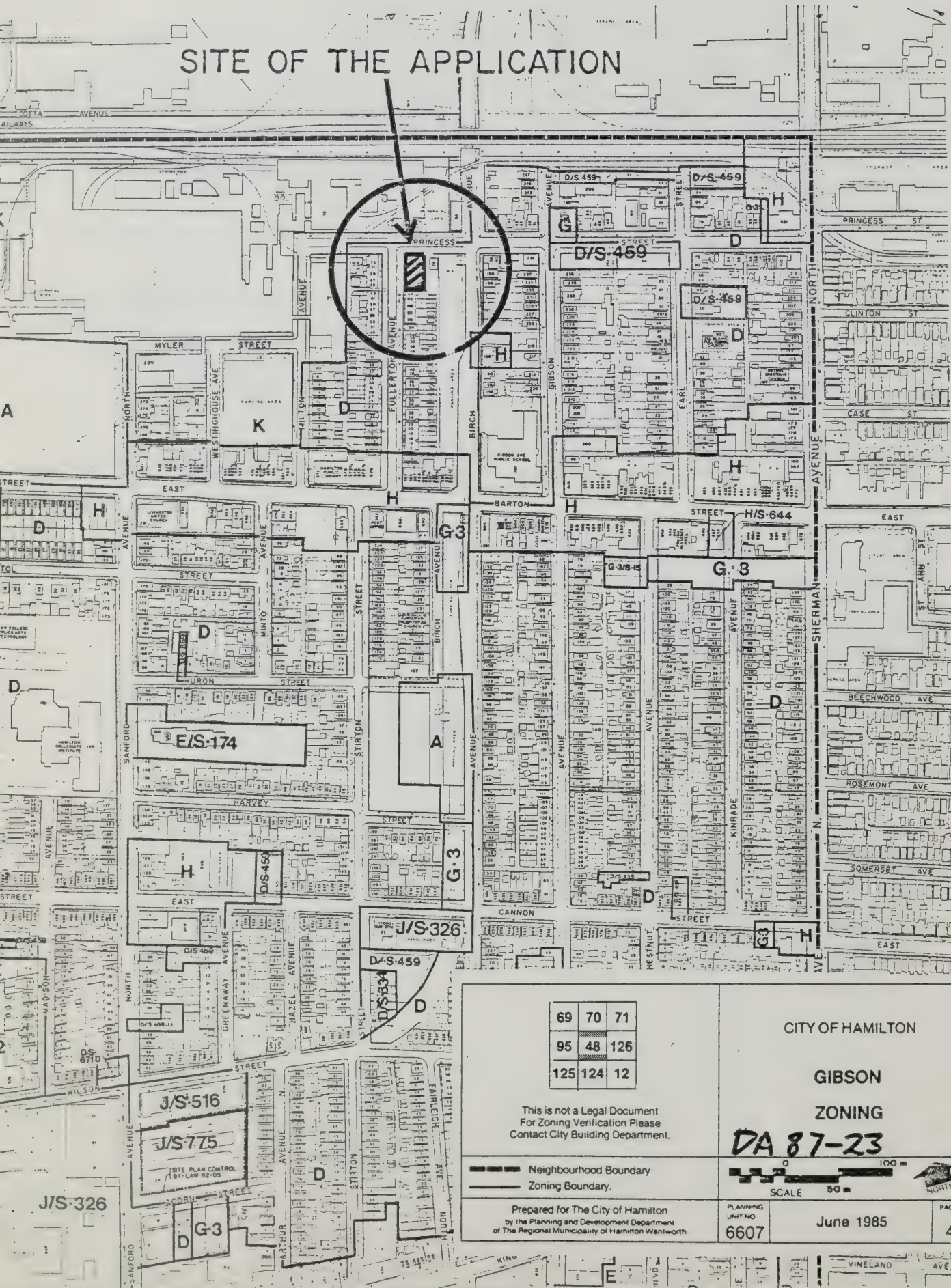
Alderman John Smith
Chairman

Alderman Brian Hinkley
Ward Alderman

VJA/JPS/jd
W.P.DOC. 0390P (26&27)

 *April 30 '87.*


SITE OF THE APPLICATION



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CITY OF HAMILTON

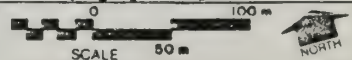
GIBSON

ZONING

DA 87-23

This is not a Legal Document
For Zoning Verification Please
Contact City Building Department.

--- Neighbourhood Boundary
--- Zoning Boundary.



Prepared for The City of Hamilton
by the Planning and Development Department
of The Regional Municipality of Hamilton Wentworth

PLANNING
UNIT NO
6607

June 1985

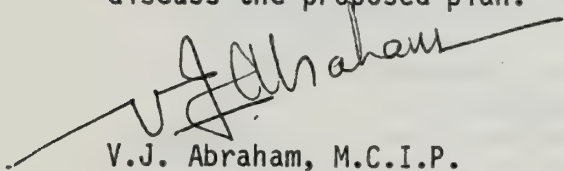
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48

F O R A C T I O NFROM Planning and Development DepartmentDATE May 5, 1987TO Planning and Development CommitteeRefer To File No. P5-2-41DURAND
NEIGHBOURHOODAttention Of V.J. AbrahamSUBJECT

Proposed plan for Durand Neighbourhood.

RECOMMENDATION

That the Planning and Development Committee authorize a public meeting to discuss the proposed plan.



V.J. Abraham, M.C.I.P.
Director of Local Planning

J.D. Thoms, M.C.I.P.
Commissioner,
Planning & Development

EXPLANATORY NOTE

The Durand Neighbourhood Plan has been reviewed and updated to provide a comprehensive and current policy framework to guide development in Durand. The original Neighbourhood Plan, which was approved in 1974, required updating and modification to reflect recent trends such as redevelopment pressures in the area.

BACKGROUND

The original Durand Neighbourhood Plan was approved in 1974. It contained a land use plan and policies dealing with preservation of low density residential areas, creation of park space, reduction of traffic congestion, etc. The Plan became a model for other neighbourhood plans prepared in the 1970's, but is now out-of-date. This is the first neighbourhood in the City for which a comprehensive update of a neighbourhood plan has been prepared.

An update of the Durand Neighbourhood Plan has been prepared for several reasons, including the following:

- the original plan has become dated, due to changes in the land use and population and development in the area;
- new planning philosophies have become prevalent, such as greater sophistication and more detail in neighbourhood plans;
- the Central Area Plan, approved in 1981 and currently being updated, provides policy direction for Durand and adjacent areas;
- numerous issues have become important, such as urban design, retention of escarpment views, and the preservation of heritage buildings;
- redevelopment pressures have been strong in this area, especially for commercial and mixed use developments; and,
- citizens of the area have requested that the Plan be updated.

A Background Information Report for Durand was prepared in 1984-85, as a first step in the process of updating the Neighbourhood Plan. This included detailed information on planning matters, such as land use, planning policies, transportation and related services. It also contained the results of surveys of residents and commercial property owners, related to issues which they felt were important in Durand.

The Durand Neighbourhood Plan Advisory Committee met twelve times between September 1985 and September 1986. The residents and business people on the committee met with staff of the Planning Department and other departments to discuss relevant issues, and develop recommended policies and actions. A draft Plan was prepared by Planning Department staff, and presented to the Advisory Committee in November, 1986. Extensive revisions have been made to the Draft Plan, based on comments provided by the Advisory Committee, and a final draft was presented to the Committee on January 21, 1986.

The plan has been further revised based on the results of circularization to municipal departments and agencies, which was done in March and April, 1987.

THE PLAN

The Durand Neighbourhood Plan attempts to achieve the following objectives, within the framework of the Official Plan, and in a manner compatible with other planning policy such as the Central Area Plan:

- preservation and enhancement of existing residential character;

- introduction of new development in a manner compatible with existing development and the land use concept;
- minimization of existing land use conflicts;
- promotion of the James Street South commercial area as a linked component of the downtown commercial area, and as a neighbourhood shopping district;
- introduction of innovative measures to maximize parking supply for residents and visitors;
- application of creative solutions to ensure the preservation of historically and architecturally significant buildings and areas;
- preservation of Central Public School as a community school serving Durand, and as a heritage building; and,
- improvements in safety, security, and urban design for the human-scale environment, including features to protect pedestrians from weather elements.

CONCLUSION

A public meeting should be held to present the plan to the general public and provide opportunity for discussion and input into the policies, prior to the Durand Plan being taken to Planning and Development Committee. The public meeting has been scheduled for June 15, 1987.

VJA/VG/lm
W.P. DOC. NO. 0125P

DRAFT

1. GOALS

1. GOALS

The following are points of general agreement discussed by the Durand Neighbourhood Plan Advisory Committee during their meetings held September 1985 to March 1986.

1. Nature of the Durand Neighbourhood

- o Durand is and will remain a distinctive residential neighbourhood, on the periphery of downtown Hamilton, which contains both historical and contemporary buildings including housing of varying densities and scale.
- o In keeping with its location in the downtown, Durand should provide services and facilities of a regional nature, such as transportation access, high density residential areas, commercial and institutional areas, while maintaining its distinct neighbourhood character.
- o Planning for Durand should be done in the context of the entire central area, to help distribute regional facilities equitably and to ensure a balanced mix of land uses.

2. Residential Land Use

- o A mix of housing types and densities should be provided, to meet the needs of all components of housing demand.
- o High density housing for singles, seniors and others should continue to be important in appropriate parts of Durand.
- o More family housing should be introduced, to attract young families and help ensure the vitality of the neighbourhood and the demand for services such as the existing public school.
- o Low density residential uses should be preserved in some areas which are currently zoned for high density residential.

3. Commercial Land Use

- o Large scale new commercial development should be directed to the block south of Main Street and north of Jackson Street along the major arterial roads which surround Durand.

- o The James Street South commercial business district should be strengthened, enhanced and linked to the Central Business District. New commercial development should be directed to the area between Main Street and Robinson Street, not further south. Mixed commercial/apartment uses will be encouraged for properties fronting on James Street, with transition to residential uses for properties to the west.
- o Commercial development within the interior of the neighbourhood should be restricted to the existing neighbourhood-level commercial areas, and limited other appropriate uses such as professional offices, which will be evaluated on their own merits.

4. Institutional Land Use

- o The existing public school should be preserved as an elementary school facility. As appropriate, the school building and grounds could be shared with other uses such as a community center or recreational facilities.
- o Any new institutional uses such as group homes and residential care facilities should be located so as not to unduly increase the concentrations of these facilities within any specific part of Durand, and within Durand as a whole, as related to the rest of the City, especially the other downtown neighbourhoods.

5. Recreation and Open Space

- o Recreational facilities and parkland should be provided to meet the needs of all residents, including families with children, and seniors.
- o Innovative approaches should be considered for providing additional park space in the densely-developed areas, such as:
 - the creation of indoor parks within mixed-use high rise developments;
 - the closure of short street sections or intersections; and
 - the redesign of rear alleyways, for public open space.
- o Bicycle and pedestrian paths should be included in the design of recreational areas.

6. Transportation and Traffic

- o Through traffic should be directed towards major arterial roads, and away from residential areas.
- o Changes to traffic flow regulations such as left turn restrictions, direction of traffic flow, etc., should be evaluated to reduce the flow of traffic on residential streets.
- o Closure of roadway sections and intersections to provide additional open space, discourage through traffic and increase safety should be evaluated.
- o On-street and off-street parking facilities should be studied to determine their adequacy in meeting the needs of both residents and non-residents, and various approaches should be studied, such as:
 - front-lawn parking conversions
 - parking permits and time limit exemption permits
 - parking cooperatives.
- o Transit routes should be evaluated and revised as necessary to meet the needs of Durand residents.
- o The needs of pedestrians should be considered in designing facilities, and wheelchair ramps, curb cuts, etc. should be provided for the handicapped and elderly.

7. Heritage Resources

- o Buildings and areas of historical and/or architectural significance should be preserved by measures such as historical designation, demolition control and other means to prevent their demolition where preservation outweighs other planning objectives.
- o Innovative approaches should be considered to help preserve heritage buildings, such as:
 - transfer of adjacent development rights
 - permission of uses otherwise not encouraged providing the integrity of the structure is maintained
 - modified standards
 - bonuses for preservation
 - other incentives such as tax relief
 - incorporation of parts or all of older buildings into the design of new structures
 - provisions for legal non-conforming uses
 - encouragement of mixed-use developments

8. Urban Design

- o New development or redevelopment in Durand should be designed in a manner which allows for an attractive environment, by means such as the following:
 - design of buildings to optimize solar exposure for passive solar heating and cooling
 - use of reflective glass on high rises to light sidewalk areas
 - design of pedestrian areas to provide protection from weather and to prevent high winds caused by building design
 - low rise buildings covering a high proportion of the site should be encouraged to provide urban rather than suburban form, a human scale, better vistas, better social interaction, less wind tunnelling and less overshadowing.

9. Safety and Security

- o Neighbourhood Watch, Block Parent and other similar programs which increase the safety and security of neighbourhood residents and their properties should be further encouraged.
- o Building design should consider deterrents to crime such as visual access, lighting, alarm systems, etc.
- o Roads and pedestrian facilities should be designed to maximize safety, by such means as street closings and the safe design of tunnels.

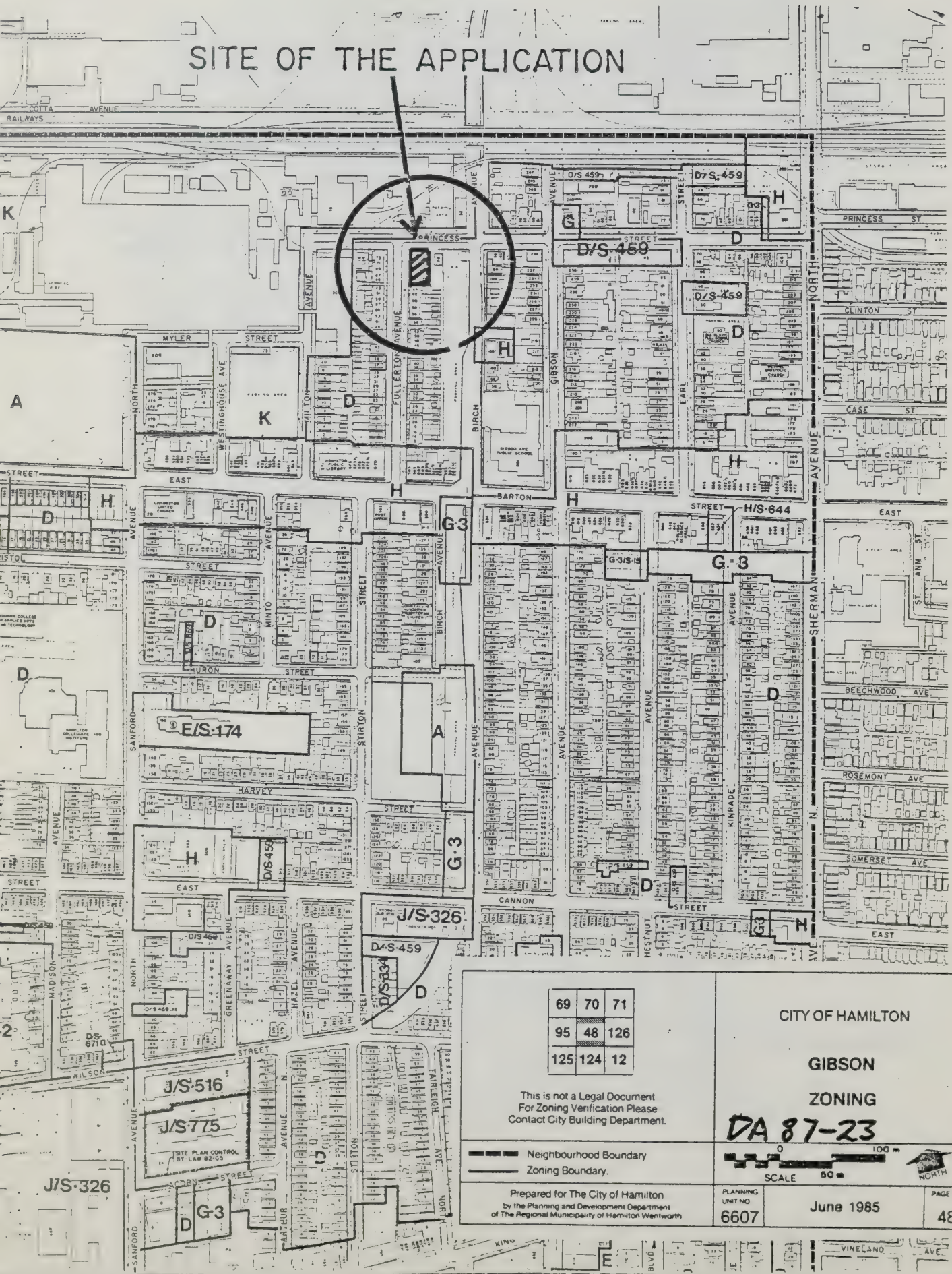
10. Public Information

- o Neighbourhood owners, tenants and business people should be made aware of all proposed building permits, development applications and changes in land use within the neighbourhood, especially where heritage buildings are involved.

11. Public Involvement

- o Citizens and business people of the neighbourhood should be involved in implementing the recommendations of this Plan, by means of input provided at public meetings, and through the Durand Neighbourhood Plan Implementation Committee.

SITE OF THE APPLICATION



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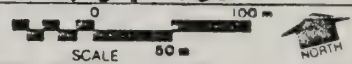
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2. LAND USES

2.1 RESIDENTIAL

Primary uses permitted are dwellings ranging from single-family housing to apartment units. Neighbourhood-related facilities such as corner stores, churches, community centres, etc. of limited size (i.e. under 0.4 ha) are also permitted.

Objective 1 - Variety of Housing Densities and Types

Durand is attractive as a residential environment because of its proximity to the downtown, its ambience and amenities and the number and quality of its building stock, therefore this character should be maintained and enhanced.

Policies

1. The Durand Neighbourhood will contain a variety of residential densities as shown on Map 1 in Appendix B.
2. Higher residential densities will be encouraged on the periphery of the neighbourhood, where possible, to minimize impacts on the interior.
3. Low residential densities will be maintained in the area south of Charlton Avenue.
4. To take advantage of Durand's attraction as a residential location and provide a balance among all income groups, age levels, and household size, a variety of housing types ranging from single-family to townhouse and apartment units will be promoted, taking into account appropriate locations, adjacent uses and available services in the vicinity.
5. The provision of appropriate housing for families, including medium density low-rise units, will be a priority.
6. Integrated social housing which is compatible in terms of scale and design with existing development, contains appropriate amenities for its tenants and takes advantage of existing services and facilities will be included in the Durand neighbourhood.
7. Land uses and activities which conflict with or detract from the overall residential ambience and character of the neighbourhood will be encouraged to relocate, modified, rerouted or reduced as much as possible.
8. The stability of existing residential neighbourhoods will be preserved by means of ensuring that any development proposals are compatible with the existing character of the neighbourhood.

Actions

1. City Council will encourage family housing in Durand, using both private and public sector approaches.

2. City Council will facilitate the relocation and reduction of conflicts in the neighbourhood, such as inappropriate commercial uses and excessive through traffic. This will be done by means of discussion with the Durand Neighbourhood Association and appropriate departments and agencies of the City and Region, and the general public.

Objective 2 - Review of High Density Residential Areas

The extensive areas designated for high density residential accommodations should be reviewed, to ensure that such uses are appropriately located relative to other existing land uses.

Policies

1. The areas included in the various "E" zoning designations will be reviewed to determine the most appropriate land uses and densities for these areas.
2. Permitted residential densities in the areas north of Charlton Avenue will be increased, decreased or maintained as appropriate.
3. Any changes to the "E" zoning designations will take into account considerations such as:
 - existing land use
 - surrounding land uses
 - proximity to downtown
 - location and designation of access routes
 - condition of existing buildings
 - historical or architectural merit of existing buildings
 - height and scale of buildings in area
 - attention to the human-scale environment
 - urban design principles.

Actions

1. City Council will give priority to the inclusion of the "E" zoning study in the work program for 1987.
2. City Council will direct the Planning Department to prepare appropriate terms of reference and other direction for the "E" zoning study, with public participation.

Objective 3 - Community Facilities and Services

The services and amenities required to support Durand's distinction as a quality residential location should be maintained and augmented in appropriate locations.

Policies

1. The existing infrastructure of community facilities and services in and near the neighbourhood, such as schools, hospitals, drop-in centres, neighbourhood stores, parks, etc. will be maintained, and if necessary improved.
2. The Neighbourhood Watch, Vertical Watch and Block Parent Programs initiated by the Regional Police Department will be supported and encouraged, to enhance the safety and security of neighbourhood residents.

Actions

1. City Council will support the provision of appropriate community facilities and services within and in the vicinity of the neighbourhood.
2. City Council and the Durand Neighbourhood Association and interested residents will provide any assistance possible to the Regional Police Department in the organization and expansion of the Neighbourhood Watch, Vertical Watch, Block Parent and other safety and security programs and measures.

Objective 4 - Renovation and Redevelopment

Renovation, infilling and compatible redevelopment or re-use of existing buildings should be encouraged especially if it is aimed at specific groups or activities not currently well-served in the area.

Policies

1. The rehabilitation of older or deteriorating housing will be encouraged wherever possible or desirable.
2. Adaptive re-use of existing buildings will be encouraged especially if the building is deemed of historical or architectural significance, contributes to the streetscape, or if the new use is providing a service or use not currently available in the area, such as short-term lodging homes, bed and breakfast establishments, neighbourhood pub, or family accommodation.
3. Demolitions will be controlled as a means of preserving viable residences.

4. Condominium conversions will not be permitted where they result in adverse impacts on the rental housing supply.
5. Government programs aimed at maintaining or increasing the affordable housing stock will be actively encouraged in Durand. Such programs include Convert-to-Rent, Conserve-a-Unit, Add-a-Unit, rehabilitation assistance and apartment renovation programs.
6. Redevelopment, where encouraged, will be in the form of infilling of a scale and design which is compatible with existing development.
7. Modification of standards including changes in zoning regulations or Building Code provisions will be considered, as a means of encouraging affordable single or family accommodation. Such changes may include reduction of the gross floor area requirements, reduced standards for landscaping, etc.
8. Where appropriate, the use of open landscaped areas under apartment buildings may be considered for provision of additional residential units. Landscaped open areas at ground level have been included in the design of some apartment buildings to maximize density bonuses.
9. Deconversion of bachelor and one-bedroom apartment units in older dwellings will be encouraged in cases where family accommodation can be provided.

Actions

1. City Council will continue to participate in, promote and publicize the various housing renewal and rehabilitation programs provided by the Federal and Provincial governments.
2. City Council will continue to explore and support special assistance measures to preserve and rehabilitate older housing including introduction of uses not normally permitted in the zoning by-law if they will preserve the building and not create undue conflicts with adjacent residents or uses.
3. City Council will support and implement the demolition control provisions in the various Provincial Acts.
4. City Council will support and implement condominium conversion requirements under the various Provincial Acts, and in accordance with the Regional Council policy.
5. City Council will request the Planning and Development Department to undertake a study of infilling opportunities in Durand, including consideration of appropriate requirements and design guidelines.
6. City Council will request that the Planning and Building Departments collaborate on a study examining zoning and Building Code provisions with a view to increasing the supply of affordable housing through modified standards, less red tape, etc. within the requirements of the Planning Act.

7. City Council will request that the Planning and Building Departments collaborate on a study of the open areas under apartment buildings to establish the appropriateness of creating additional residential units in this area.
8. City Council will consider supporting deconversion of bachelor and one bedroom apartments in cases where family accommodation will result, if the supply of affordable rental housing is not adversely affected.

2.2 COMMERCIAL

Primary uses permitted are establishments involved in the selling of goods and services, business offices, restaurants and home occupations.

Objective - Compatible Commercial Uses

Durand, as part of the Central Area, provides commercial uses and services of Regional significance. It is desirable to encourage commercial uses in appropriate areas of Durand, without weakening Durand's principal role as a residential area.

Policies

1. The commercial designations within Durand will include:
 - Commercial (general) in areas adjacent to Main Street West
 - Commercial and apartments in areas adjacent to James Street South, as well as small areas further west.

These designations are shown on the Neighbourhood Plan, in Map 1, Appendix B.

2. Large scale new commercial development will be directed to the blocks south of Main Street and north of Jackson Street.
3. The James Street South commercial business district will be strengthened, enhanced and linked to the Central Business District. New commercial development will be directed to the area between Main and Robinson Streets, not further south. Commercial and apartment uses will be encouraged for properties fronting on James Street South, and transition uses, such as less intensive commercial uses, will be considered for properties immediately to the west, as far west as MacNab Street. A "Conservation" designation will be applied to these properties, to denote the preservation of existing heritage buildings. Commercial development within the interior of the neighbourhood will be restricted to the existing neighbourhood-level commercial areas and limited other appropriate uses such as professional offices, which will be evaluated on their own merits.
5. The James Street South commercial area will be supported and encouraged as:
 - an area of small-scale, low-rise commercial establishments, in combination with some residential apartment (thus requiring some revisions to the related planning designation).
 - a neighbourhood shopping area within walking distance of most Durand residents.
 - a unique shopping area of boutiques and specialty shops, with City-wide appeal.
 - a possible location for a Business Improvement Area.

6. Proposals for new or expanded commercial uses within the James Street South area will be evaluated based on their ability to meet the following criteria:
 - preservation and enhancement of existing buildings, especially those of architectural or historic interest.
 - compatibility with the existing types of uses in the area, namely boutiques and specialty shops.
 - provision of goods and services to neighbourhood residents
 - retention of existing attractive streetscapes.
 - provision of minimal outdoor advertising
 - retention of low rise commercial and/or residential buildings
 - discouragement of rezonings which would permit high rise development.
7. The James Street South area will be studied with regard to streetscaping and possible improvements to property and facilities, to develop a detailed plan of action for this area. This study will also address the linkage of this area with the downtown. The potential for the establishment of a BIA will also be investigated, and discussed with local merchants.
8. The improvement of commercial facades and properties will be encouraged by appropriate means, including regulation of signage.
9. New or expanded commercial uses within the interior of the Durand neighbourhood will be restricted to professional offices, such as doctors, dentists and lawyers, in existing buildings. Proposals for such uses will be evaluated based on their ability to meet the following unweighted criteria:
 - preservation and enhancement of existing buildings, especially those of architectural or historic interest, including possible designation under the Ontario Heritage Act.
 - compatibility with the mainly residential character of the area.
 - provision of sufficient parking
 - provision of appropriate aesthetic features such as landscaping and buffering
 - retention of existing attractive streetscapes
 - proximity to other commercial areas, where possible, particularly at the south end of the neighbourhood near the downtown
 - provision of services to neighbourhood residents
 - demand for commercial development
 - retention of existing residential units, in the case of mixed commercial/residential developments
 - conservation of existing or proposed heritage areas
 - discouragement of rezonings which would permit high rise development
 - provision of minimal outdoor advertising
10. Home occupations and cottage industries will be permitted within the interior of the neighbourhood provided there is a minimal outdoor advertising, parking is available and it can be shown that excess traffic and other adverse impacts on neighbours will not be created.

11. Commercial and related uses in Durand will be planned within the context of the Central Business Planning District which is proposed to include the six downtown neighbourhoods to help provide co-ordination of the policies for the downtown.

Actions

1. City Council will request Planning and Development Department staff to use the criteria noted in the foregoing policies in evaluating the merits of commercial zoning applications in the James Street South commercial area and the interior of the Durand neighbourhood, respectively.
2. City Council will direct that the following changes be made to designations in the Durand Neighbourhood Plan.
 - change Block 1 on Map 2 in Appendix B from 'Commercial' to 'Commercial and Apartments (Conservation)'
 - change Block 2 on Map 2 from 'Medium Density Apartments' to 'Commercial and Apartments'.

These areas are adjacent to James Street South.

3. City Council will direct that the following changes be made to zoning designations:
 - change the area noted on Map 3 in Appendix B from 'I' to 'E-1'
 - use 'E-1' rather than 'CR' zoning for any future commercial/apartment uses along James Street South, to preserve existing buildings and prevent high rises.
4. City Council will initiate a detailed study of the James Street South area regarding streetscaping and possible improvements to property and facilities. The study will include a review of land use, traffic, parking, heritage resources and urban design. This study will include liaison with business people on the street including the local BIA, if one is established and the general public.
5. City Council will request the Community Development Department to publicize and promote the rehabilitation programs on James Street South.
6. City Council will recommend the creation of a Business Improvement Area on James Street South.
7. City Council will request the Planning and Development Department to define the boundaries of the Central Business Planning District, in order that co-ordinated commercial policies may be developed.

6. Proposals for new or expanded commercial uses within the James Street South area will be evaluated based on their ability to meet the following criteria:
 - preservation and enhancement of existing buildings, especially those of architectural or historic interest.
 - compatibility with the existing types of uses in the area, namely boutiques and specialty shops.
 - provision of goods and services to neighbourhood residents
 - retention of existing attractive streetscapes.
 - provision of minimal outdoor advertising
 - retention of low rise commercial and/or residential buildings
 - discouragement of rezonings which would permit high rise development.
7. The James Street South area will be studied with regard to streetscaping and possible improvements to property and facilities, to develop a detailed plan of action for this area. This study will also address the linkage of this area with the downtown. The potential for the establishment of a BIA will also be investigated, and discussed with local merchants.
8. The improvement of commercial facades and properties will be encouraged by appropriate means, including regulation of signage.
9. New or expanded commercial uses within the interior of the Durand neighbourhood will be restricted to professional offices, such as doctors, dentists and lawyers, in existing buildings. Proposals for such uses will be evaluated based on their ability to meet the following unweighted criteria:
 - preservation and enhancement of existing buildings, especially those of architectural or historic interest, including possible designation under the Ontario Heritage Act.
 - compatibility with the mainly residential character of the area.
 - provision of sufficient parking
 - provision of appropriate aesthetic features such as landscaping and buffering
 - retention of existing attractive streetscapes
 - proximity to other commercial areas, where possible, particularly at the south end of the neighbourhood near the downtown
 - provision of services to neighbourhood residents
 - demand for commercial development
 - retention of existing residential units, in the case of mixed commercial/residential developments
 - conservation of existing or proposed heritage areas
 - discouragement of rezonings which would permit high rise development
 - provision of minimal outdoor advertising
10. Home occupations and cottage industries will be permitted within the interior of the neighbourhood provided there is a minimal outdoor advertising, parking is available and it can be shown that excess traffic and other adverse impacts on neighbours will not be created.

11. Commercial and related uses in Durand will be planned within the context of the Central Business Planning District which is proposed to include the six downtown neighbourhoods to help provide co-ordination of the policies for the downtown.

Actions

1. City Council will request Planning and Development Department staff to use the criteria noted in the foregoing policies in evaluating the merits of commercial zoning applications in the James Street South commercial area and the interior of the Durand neighbourhood, respectively.
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These areas are adjacent to James Street South.

3. City Council will direct that the following changes be made to zoning designations:
 - change the area noted on Map 3 in Appendix B from 'I' to 'E-1'
 - use 'E-1' rather than 'CR' zoning for any future commercial/apartment uses along James Street South, to preserve existing buildings and prevent high rises.
4. City Council will initiate a detailed study of the James Street South area regarding streetscaping and possible improvements to property and facilities. The study will include a review of land use, traffic, parking, heritage resources and urban design. This study will include liaison with business people on the street including the local BIA, if one is established and the general public.
5. City Council will request the Community Development Department to publicize and promote the rehabilitation programs on James Street South.
6. City Council will recommend the creation of a Business Improvement Area on James Street South.
7. City Council will request the Planning and Development Department to define the boundaries of the Central Business Planning District, in order that co-ordinated commercial policies may be developed.

2.3 PARKS, RECREATIONAL AND OPEN SPACE

Primary categories include parks, public and private recreation areas and alleys. The lands of the Niagara Escarpment are included in this designation.

Objective - Enhancement of Parks and Open Space

In view of the significance of parks, recreational and open space facilities to an inner-city neighbourhood with a high concentration of residents, the importance of maintaining, enhancing and increasing parks and open space should be recognized.

Policies

1. Existing park facilities such as Durand Park will be re-examined through user studies and liaison with residents to determine if facilities and services are adequate.
2. The two remaining residences within Durand Park, located on Charlton Avenue, will continue to be designated for parkland. These will be acquired when the existing residents desire to move.
3. The safety of all users of Durand Park, including children and the elderly, will be ensured by means of improved design, supervision and surveillance.
4. Additional public park facilities will be provided in the neighbourhood, using property which is readily available, where possible. Various locations will be examined such as Central School, the Thistle Club grounds, Niagara Escarpment lands, vacant lots, unused portions of road allowances, apartment grounds (such as those at 155 Park Street South), back alleys, redevelopment of residential properties, etc.
5. Additional recreational opportunities for seniors will be located in proximity to concentrations of senior accommodations. Indoor and outdoor parks within seniors buildings, and use of the existing private facilities in off-peak hours will be investigated.
6. The recommendations of the Durand Alley Beautification Study for additional open space in conjunction with pedestrian routes, parking and rear access will be considered and implemented where possible.
7. The concept of a green space corridor, such as that contained in the Durand Alley Beautification Study, will be refined and implemented.

8. In conjunction with an overall plan aimed at the reduction of traffic on certain streets, consideration will be given to road closures and the creation of parkettes at selected intersections such as Robinson at Caroline and Markland at Bay.
9. The Escarpment Master Plan will be expedited and reviewed, including public input, to determine implications for the Durand Neighbourhood.
10. Pedestrian accesses up and down the escarpment will be maintained and improved in accordance with safety regulations.
11. City-owned open space lands will be developed and maintained to a high standard where appropriate to contribute to the open space inventory and enhance the neighbourhood environment.

Actions

1. City Council will request the Parks Sub-Committee and appropriate departments to initiate a study in conjunction with local residents and the Durand Neighbourhood Association regarding park facilities and use of Durand Park.
2. City Council will request the appropriate departments and agencies, including the police, to provide for the safety of all users of Durand Park.
3. City Council will request the Parks Sub-Committee and appropriate departments to recommend suitable locations and arrangements for additional park facilities and recreational opportunities, particularly for seniors.
4. City Council will request the appropriate departments to implement the Alley Beautification Study recommendations after input from neighbourhood residents, the Durand Neighbourhood Association and other interested parties.
5. City Council will allocate appropriate funding to implement the Alley Beautification Study recommendations.
6. City Council will request that an objective independent study be conducted to determine the most suitable locations for the creation of parkettes at road intersections.
7. City Council will request the Department of Culture and Recreation, Public Works Department, Parks Division, and Planning and Development Department to suggest and implement methods of improving existing visual and passive open space.

8. City Council will request the Public Works Department to continue to maintain City-owned property and make improvements where possible.
9. City Council will ensure that the Escarpment Master Plan is expedited and includes input from Durand residents to its recommendations.
10. City Council will request that the appropriate agencies investigate the maintenance and improvement of the pedestrian escarpment accesses.

2.4 CIVIC AND INSTITUTIONAL

Primary uses permitted are facilities providing a service function to the community. They may include churches, hospitals, residential care facilities, hostels, group homes, schools, private clubs and libraries.

Objective 1 - Integration of Institutional Uses

Durand presently has a large number of institutional uses; therefore, although existing institutional uses will be fully supported, new uses should only be introduced after careful assessment of adjacent uses, impacts and effects on preservation of the residential ambience of the neighbourhood.

Policies

1. Existing concentrations of group homes and residential care facilities will not be increased within any specific part of Durand, or within Durand as a whole.
2. Existing requirements for residential care facilities, such as parking, will not be reduced, particularly where the numbers of beds permitted may be increased.
3. Consideration of new residential care facilities will take into account adjacent land uses, the character of development in the area, the amount of yard space available to residents, the provision of recreational opportunities on site or in conjunction with other group homes in the area, the concentration of such uses, size of dwelling, number of residents, etc.
4. The impacts of group homes and residential care facilities will be mitigated by appropriate measures such as landscaping, provision of recreational areas, etc. Communal facilities such as gardens will be provided in appropriate and convenient locations, to reduce feelings of overcrowding.
5. The location and design of group homes and residential care facilities in Durand will be reviewed by the Durand Neighbourhood Plan Implementation Committee.

Actions

1. City Council will request the Planning and Development Department to review its policies and regulations governing group homes and residential care facilities in the City, in accordance with the policies in this Plan.

2. The Durand Neighbourhood Plan Implementation Committee will initiate a formal liaison committee to discuss and resolve concerns and needs of group homes and residential care facilities in Durand. This committee will consist of members of the Durand Neighbourhood Plan Implementation Committee, the group home association, health and psychiatric care professionals and interested neighbourhood residents. Of particular importance will be the provision of recreational facilities, gardens and other leisure activities to be used by group home residents.

Objective 2 - Provision of Facilities for Seniors

Institutional facilities serving the seniors population, including recreational and related uses, should be upgraded, expanded and increased.

Policies

1. Drop-in centres, games rooms, health and fitness facilities, libraries, teaching centres and other appropriate facilities will be introduced into existing seniors buildings with appropriate staffing and funding.
2. Existing facilities for seniors will be optimized.

Actions

1. City Council will request the Planning and Development Department to work with the Region, the Social Planning and Research Council, seniors organizations, and other interested or affected departments and agencies to determine the appropriate number and locations of facilities and services for seniors.
2. City Council will request the Social Planning and Research Council or other appropriate agency to undertake a study of existing seniors facilities to determine where improvements could be made and to recommend funding.

Objective 3 - Provision of Public School Facilities

The existing facilities at Central Public School will be maintained, enhanced and expanded, if necessary, in order to provide appropriate educational and community services for the residents of Durand.

Policies

1. The relevant government levels and agencies will work together to help ensure the continued provision of high quality educational services at Central Public School, which should function as a community elementary school.

2. Consideration will be given to the construction of a modern community centre at Central Public School, to provide for the needs of Durand residents. This could be built to replace the addition constructed during the 1950's.

Actions

1. City Council will request the Board of Education to discuss any intentions to alter Central Public School, change the enrolment of Durand children at other schools currently attended, or close any schools with City Council, the parents, the Home and School Association, and the Durand Neighbourhood Plan Implementation Committee prior to actions being taken. Liaison between the Board of Education and City Council will be an important part of this process.
2. City Council will request the Board of Education, and appropriate departments and agencies, to evaluate the potential for construction of a modern community centre at the school.

3. SERVICES

3.1 TRAFFIC

Traffic uses include vehicular, bicycle pedestrian flows utilizing public streets, alleys and other thoroughfares, moving people and goods from one location to another.

Objective 1 - Redirection of Through Traffic

Durand Neighbourhood occupies a strategic location within Hamilton's transportation network between the downtown and the Escarpment. The traffic system in Durand should be designed to minimize impacts on the residential area, be compatible with pedestrians, desired land uses and other goals for the neighbourhood, while maintaining traffic efficiency and convenience as much as possible.

Policies

1. Priority will be given to establishing a traffic system which reduces or redirects the amount of through traffic in the neighbourhood. This system will define a hierarchy of streets according to desired through traffic volumes and function.
2. Certain turning movements will be prohibited at several intersections during peak hour periods, to reduce through traffic on local residential streets.
3. New land uses which would generate high traffic volumes will be encouraged to locate on the periphery of the neighbourhood.
4. Signs directing traffic to parking areas for the Copps Coliseum will be posted in convenient, well-travelled locations to ensure ease of access without disruption of the neighbourhood.
5. Road maintenance and snow removal will be upgraded in Durand.

Actions

1. City Council, in conjunction with the Region, will request that an independent traffic assessment be done to determine methods of improving the transportation system and reducing through traffic. This study will include input from the public.
2. City Council will request that a traffic system be developed to define the amount of through traffic to be encouraged on each roadway in Durand. It is recommended that through traffic be encouraged to use Main, Queen, James and Hunter Streets. The use of Hunter Street to bypass downtown Hamilton will be encouraged. Lower volumes of through traffic will be directed towards Charlton, Herkimer and the section of Bay Street north of Herkimer. On other streets, such as Hess, Caroline, Aberdeen and Markland, through traffic volumes will be reduced. A preliminary version of this traffic system is contained in Appendix D.

3. City Council will implement the recommendations of the Durand traffic study, and request support and assistance from other levels of government, including the Region where Regional roads are involved.
4. City Council will review and update the traffic study particularly when new developments are proposed or constructed which will significantly alter traffic patterns.
5. City Council will request the Traffic Department to institute the following turning restrictions:
 - 'no left turns' from northbound on James to westbound on Markland, from 7:00 to 9:00 a.m.
 - 'no right turns' from northbound on Queen to eastbound on Aberdeen, from 7:00 to 9:00 a.m.
 - 'no left turns' from southbound on Queen to eastbound on Aberdeen, from 4:00 to 6:00 p.m.
6. City Council will request the Traffic Department to improve signage to parking areas for the Copps Coliseum, particularly at key intersections and on access roads.
7. City Council will request the Public Works Department to improve road maintenance and snow removal in Durand.

Objective 2 - Reduction of Traffic to Create Pedestrian Areas

Innovative traffic control, encouragement, discouragement and combinations of traffic/pedestrian usage on some streets should be investigated to reduce through traffic and provide attractive areas for pedestrians.

Policies

1. Consideration will be given to establishing parkettes by means of road closures as a means of discouraging through traffic while adding to the park and open space inventory in the neighbourhood. This might include one or two road closures at strategic locations.
2. Consideration will be given to creating a woonerf on certain streets such as Park Street. A woonerf is a road on which pedestrians and vehicles are given equal priority, by means of a maze-like design. This concept is illustrated in Appendix E.
3. Other traffic reduction/discouragement measures will be investigated, implemented on a trial basis and made permanent, where feasible, on certain streets or portions of streets where excessive through traffic has been cited as a problem. Access for emergency vehicles will continue to be provided.

Actions

1. City Council will request the Traffic, Planning, Public Works, Parks, and Culture and Recreation Departments to develop a program for providing parkettes at specific intersections, such as Robinson at Caroline and Markland at Bay. This will be done by an independent consultant with input from neighbourhood residents and the Durand Neighbourhood Plan Implementation Committee.
2. City Council will request the Traffic Department to investigate and conduct a woonerf experiment on Park St.
3. City Council will request the Traffic Department to liaise with the Durand Neighbourhood Plan Implementation Committee on traffic improvements which can be made from time to time.

Objective 3 - Provision of Bicycle Facilities

The safe, convenient use of bicycles should be encouraged throughout the Durand Neighbourhood by providing bicycle facilities which minimize conflicts with vehicles and pedestrians.

Policies

1. A bicycle route system throughout the neighbourhood and linking up with other bicycle routes in the Central Area and the City will be developed in Durand.
2. Particular attention will be paid to the bicycle/motor vehicle interface to facilitate bicycle crossings, avoid conflicts and ensure an attractive, convenient and safe bicycle route. Consideration will be given to bicycle crosswalks, special signs, warning lights and overhead cycle bridges.
3. Consideration will be given to the use of Durand's alleys for bicycle routes, in keeping with the recommendations of the Durand Alley Beautification Study.
4. Provision of adequate facilities for storage of bicycles, such as bicycle racks, will be given consideration.

Action

1. City Council will request the Bicycle Committee to draw up a detailed bicycle system in Durand, with input from cyclists, residents and the Durand Neighbourhood Association, with particular attention to road crossings, special 'bicycle only' routes, consideration of alleys for bicycle routes, and provision of bicycle racks.

Objective 4 - Enhancement of Pedestrian Environment

The pedestrian environment should be improved so that it is safe, convenient and pleasant to walk from all areas of Durand to and from the downtown or other destinations.

Policies

1. Pedestrian facilities will be upgraded and expanded through the creation of a pedestrian network utilizing alleys, specific streets and other suitable areas in a systematic fashion.
2. Pedestrian comfort and convenience will be improved through the placement of sidewalk ramps at all intersections, placement of street furniture in heavily-used pedestrian traffic areas, separation of sidewalks from streets by placing of planting material, and protection from wind, sun, snow and ice wherever possible.
3. In areas of high concentrations of senior citizens, particularly the northwestern portion of the neighbourhood, special attention will be paid to the need for benches, weather protection, pedestrian bridges over streets and covered walkways.
4. In all areas of Durand, sidewalks will be upgraded and the quality of paving materials improved to provide an interesting, attractive and safe walking surface.
5. Pedestrian areas, including sidewalks, will be kept clear and free of garbage. The areas in the vicinity of large industrial garbage containers at apartment buildings will be kept clean. More litter receptacles will be provided throughout the neighbourhood, as part of the street furniture.
6. The MacNab Street tunnel will be improved, including the planned concrete repairs and additional studies, in order to develop an improved, safer design for pedestrians.
7. Pedestrian and bicycle links included in the Central Area Plan will be preserved and/or developed within the neighbourhood.

Actions

1. City Council will request the Planning, Traffic and Public Works Departments to undertake a pedestrian needs study for Durand examining areas for improvement, creation of a pathway system, provision of pedestrian facilities, protection from the elements and other measures to increase pedestrian comfort and convenience. Facilities for seniors will be a priority.
2. City Council will request the Transportation Department to budget for and provide new sidewalks and upgraded materials in appropriate areas.

3. City Council will request the appropriate departments to help ensure that pedestrian areas are kept tidy, and that design improvements to improve safety are studied.
4. City Council will request the Planning Department and other appropriate departments to implement the pedestrian and bicycle links included in the Central Area Plan for Durand.

3.2 PUBLIC TRANSIT

Public transit includes the bus system operated by the Hamilton Street Railway (HSR).

Objective 1 - Provision of Efficient Transit Routes

Safe, efficient transit routes should be provided for Durand residents.

Policies

1. Transit routes currently serving Durand will be reviewed and improved as necessary to ensure that bus service is convenient in terms of frequency and ease of access to all destinations. Where possible, the number of transfers required will be reduced.
2. Bus stops will be conveniently located, and will take advantage, where possible, of existing sheltered waiting areas.

Action

1. City Council will request the HSR to review and improve transit routes and amenities serving Durand, in terms of such factors as frequency.

Objective 2 - Compatibility with Residential Uses

Appropriate types of buses will be provided for residential neighbourhoods such as Durand, where possible.

Policy

1. Consideration will be given to the use of smaller buses with quieter controlled upper level exhaust systems, within residential areas.

Action

1. City Council will request the HSR to provide buses which are quiet, clean and suitable for residential areas such as Durand.

3.3 PARKING

Parking includes facilities and provisions for storage of motor vehicles in on-street, or off-street locations.

Objective 1 - On-Street Parking

Although parking on neighbourhood streets is a privilege and not a right, a more equitable and consistent parking system should be developed so that residents without their own private parking spaces have the first priority to park on their own street as much as possible, without precluding the rights of visitors to park.

Policies

1. The current on-street parking system in Durand will be reviewed on a street-by-street basis taking into account residential densities in the area, existing on and off street parking spaces, traffic flows, streetscapes, parking demand and other relevant factors.
2. Each street will be evaluated for possible new parking regulations such as time limit exemption, permit parking, etc. Where feasible and desirable, new regulations will be instituted.
3. Parking conflicts between residents and motorists using downtown commercial, institutional or entertainment facilities such as the Copps Coliseum, will be reduced by more readily available and accessible downtown parking areas and a clear, well-marked sign system directing motorists to those parking areas.
4. Consideration will be given to requiring apartment tenants to use only the parking spaces provided for their building.
5. The reduction of on-street parking due to front lawn parking conversions will be studied, and discouraged where appropriate.
6. Cash-in-lieu will be encouraged for new developments where adequate parking cannot be provided. These funds will be used for the provision of additional municipal parking.

Actions

1. City Council will request the Traffic and Planning Departments to undertake a parking study in Durand examining parking needs and inventory on a street-by-street basis and recommending improvements to the parking system to be discussed with residents, users and the Durand Neighbourhood Plan Implementation Committee.
2. City Council will request the Traffic Department to improve signage to downtown parking areas.

3. City Council will request that a traffic study be undertaken to assess parking requirements for apartment buildings.
4. City Council will request a study of front lawn parking conversions.
5. City Council will encourage the implementation of the cash-in-lieu of parking policy.

Objective 2 - Off-Street Parking

The number of off-street parking spaces should be increased provided this does not have a negative impact on the streetscape and does not conflict with other land uses.

Policies

1. A special study will be made of the conversion of front lawns to parking spaces to establish suitable policies and criteria for all areas of Durand.
2. Innovative parking arrangements will be examined for suitability and feasibility in Durand, such as parking cooperatives, parking condominiums, parking shared by businesses and residences, user-pay parking for residents, the use of some smaller parking spaces for compact cars, etc.
3. Whenever a new parking lot is created, a rezoning will be required so that the benefits of full planning input are achieved.
4. Opportunities for new off-street parking areas will be examined such as acquisition of property, use of existing open spaces if not required for other purposes, use of private parking areas such as at Central Public School, City Hall, the Thistle Club, or St. Joseph's Hospital, etc.

Actions

1. City Council will request the Traffic and Planning Departments to undertake a study of front lawn conversions in Durand and recommend special policies and criteria to be instituted. Matters to be considered will include aesthetics, effect on the streetscape, appropriate number per dwelling, suitability, effect on street parking, materials used, screening, loss of green space, etc.
2. City Council will request the Traffic Department to investigate and report on the suitability of innovative parking arrangements including shared parking, which would increase the parking supply for residents.

3. City Council, with guidance from the Durand Neighbourhood Plan Implementation Committee will consider amendments to the zoning by-law for parking lots, to provide greater control over redevelopment.
4. City Council will request the appropriate departments to evaluate the possible use of the Central Public School parking lot for a paid parking system during evenings and weekends.
5. City Council will give consideration to optimizing the use of the City Hall parking lot, by such means as building an underground parking garage with green space on top.

Objective 3 - Parking for James Street South

The creation of off-street parking lots serving the James Street South commercial area should be a priority.

Policy

1. Priority will be given to providing accessible, convenient and well-marked off-street parking facilities to serve the James Street South business area. Parking areas could be in Corktown Neighbourhood and may include parking structures shared with other facilities such as GO-RAIL at the TH&B Station.

Action

1. City Council will request the Parking Authority to expedite the creation of off-street parking areas to serve the James Street South business area.

3.4 ALLEYS

Alleys are public and private traffic and pedestrian routes extending along rear and side lot lines. Although not main thoroughfares, public alleys are a valuable public resource for open space, access, parking, service and pedestrian and vehicular movement.

Objective - Optimize Use of Alleys

Alleys should be utilized for various purposes such as open space, access, pedestrian movement, parking, bicycle routes and service vehicles.

Policies

1. The results of a recent study on Durand alleys will be reviewed by Durand residents and modified where appropriate.
2. The recommendations of the alley study for lighting, paving, landscaping, fencing, etc. will be implemented on an alley by alley basis, to provide an overall pedestrian system utilizing alleys, while permitting other uses such as parking.

Actions

1. The Durand Alley Beautification Study 1986 report, which has been approved in principle by the Durand Neighbourhood Plan Advisory Committee, will be the subject of a public meeting to discuss recommendations.
2. Approval of the Alley Study will be requested from the Planning and Development Committee and City Council.
3. City Council will make budget provisions for implementation of the recommendations and request the Public Works Department or a consultant to implement appropriate parts of the Alley Beautification program.

3.5 RAILWAYS

Rail service includes inter-city passenger rail service.

Objective - Convenient Rail Service

The existing inter-city rail service should be maintained. Rail service to Durand should be improved if the TH&B station on Hunter Street is selected as the terminus for the expanded GO rail service.

Policies

1. A detailed land use study of the area surrounding the TH&B station will be done if this site is chosen as the GO rail terminus. This will determine appropriate land use and development in the area, including consideration of mixed-use buildings and a parking structure.
2. Parking facilities associated with any new rail terminal at the TH&B station will be designed to ensure adequate parking supply. Consideration will be given to sharing such facilities with the James Street South business area.
3. If appropriate, nearby pedestrian facilities such as the sidewalks on James Street under the TH&B tracks will be redesigned in conjunction with the possible new railway terminal, to ensure an attractive and functional environment for pedestrians.
4. Noxious exhaust fumes from trains will be reduced and/or directed from residential area.

Actions

1. City Council will request the Planning and Development Department to undertake a detailed land use study of the area surrounding the TH&B station, should it be selected as the GO rail terminus.
2. City Council will request the Planning and Development Department to liaise with the Parking Authority concerning the design of new parking facilities associated with the TH&B station.
3. City Council will request the Planning, Public Works and other appropriate departments to consider pedestrian amenity in any redesign of the James Street underpass.
4. City Council will request the railway companies to investigate means of reducing and/or redirecting train exhaust.

3.6 ENGINEERING

Engineering includes the provision of necessary services such as storm and sanitary sewers, hydro, storm drainage and the care and maintenance of trees.

Objective - High Quality Engineering Services

High quality engineering services should be maintained and improved in Durand.

Policies

1. Improvement of the storm and sanitary sewer system in Durand, by means such as separation of sewers, will be encouraged.
2. Underground wiring will be instituted for all new development in Durand.
3. Underground wiring will be phased in for existing development as resources permit.
4. Storm drainage problems will be rectified in areas where they have been identified as a problem.
5. Trees will be maintained wherever possible. Damaged trees should be removed and replaced.

Actions

1. City Council will request the Region through the Regional Engineering Department to budget for improvement of the storm and sanitary sewer system in Durand.
2. City Council will request the Region through the Transportation Department to budget for underground wiring in Durand, where appropriate.
3. City Council will request the Public Works Department to rectify storm drainage problems where identified, such as on Charlton Avenue between James and Caroline Streets, on south side.
4. City Council will request the Public Works Department to ensure proper tree maintenance, protection and replacement. A tree planting plan will be prepared, in consultation with the Durand Neighbourhood Plan Implementation Committee, and possibly with the advice of expert staff from outside agencies such as the Royal Botanical Gardens. Consideration will be given to the preparation of a tree survey. Tree plantings along roadways and on public lands, such as the grounds of Central School, will be considered.

4. URBAN DESIGN

4. URBAN DESIGN

Urban design involves the form and appearance of buildings and their inter-relationships. Visual aspects of urban design include massing of buildings, relationship of buildings to each other, appearance of individual buildings, the definition of open space by buildings, and the appearance of open spaces including streets, parks, parking lots and privately owned areas visible to the public.

An important aspect of urban design is the preservation of buildings and conservation of areas with architectural and historic significance to the neighbourhood or city because of age, design, builder, history, association, special character feature or artistic and aesthetic quality. Durand has outstanding buildings and areas of architectural and historic importance. Much of Durand's charm and attractiveness is derived from its older buildings and their settings.

Functional aspects of urban design include pedestrian linkages, integration of the pedestrian and vehicular systems, access to sunlight, shelter from wind, rain and snow, design for crime prevention and design for a livable winter city, which considers the special needs of pedestrians in the winter. Special consideration should be given to the needs of seniors, the handicapped, and users of wheelchairs, carts, buggies and baby strollers.

Objective 1 - Application of Urban Design Principles

Durand's character and role should be enriched and expanded through appropriate urban design principles applied in a manner to ensure an attractive environment and economic well-being.

Policies

1. The review of the 'E' zoning district will give consideration to retention of presently permitted densities at reduced heights for portions of the neighbourhood where lower heights predominate or where there are significant heritage buildings or streetscapes which should not be disturbed.
2. Design excellence and co-ordination will be required and encouraged to preserve Durand's existing character. The Urban Design Committee, which is now established and operational, will pursue these objectives.
3. The Niagara Escarpment is the most significant physical feature in Durand. Vistas and view corridors to the Escarpment will be preserved in all areas of Durand, particularly south of Robinson Street where these views are most critical.

4. The design and siting of new buildings will take into account the manner in which the new buildings and surrounding buildings modify the effects of climate, such as wind, rain, snow, sun, heat and cold. Efforts will be made to mitigate the effects of adverse weather conditions on the pedestrian, to implement the livable winter city concept.
5. The potential shadow effects of new buildings will be studied, to minimize adverse impacts on existing structures and land uses.
6. The human scale and encouragement of human interaction through building design will be a priority in height, mass, access and amenities of new buildings.
7. Setbacks for new buildings will take into account existing setbacks, and development of the setback area for pedestrians. For high rise residential/commercial developments, consideration will be given to requiring additional setbacks for floors above the sixth storey (approximately the height of mature trees) to minimize the visual intrusion of these buildings as viewed from street level. Landscaping and other amenities can be provided at the setback level. Where residential development is proposed in conjunction with commercial, additional setbacks will not be required for the residential component.
8. The effects of front lawn conversions for parking on the streetscape will be carefully examined before significant additional conversions are permitted. Policies will be established as part of the study process.
9. The tunnel under the TH and B railway tracks at MacNab will be repaired and upgraded to provide an attractive, safe and convenient link between the downtown and the neighbourhood.
10. Wind effects will be studied on streets identified as having wind problems and significant numbers of pedestrians such as Park St. and Bay St. in order to mitigate the effects of wind on pedestrians. Such measures may include landscaping, canopies and wind deflection devices, as illustrated in Appendix F.
11. Crime prevention design will be a priority through introduction of special lighting in problem areas, fencing, increased visibility, participation in Neighbourhood Watch and other programs and liaison between the Regional Police Department and Durand Neighbourhood Plan Implementation Committee to resolve and reduce problems.
12. Plantings such as trees on the grounds of Central Public School will be considered, to provide a visual and noise barrier for surrounding apartment residents.

Actions

1. City Council will ensure inclusion of heritage preservation objectives in the study examining the 'E' zoning district.
2. The Urban Design Committee will consider architectural and urban design guidelines to help preserve Durand's special character, including the heritage buildings.
3. The Urban Design Committee will study preservation of Escarpment views and vistas in its Urban Design Guidelines.
4. City Council will investigate the most appropriate means to incorporate environmental considerations (sun, wind, snow, cold and high rise setbacks to prevent street-level shading) in the zoning by-law or site plan by-law.
5. City Council will request the Urban Design Committee to consider the human scale in the Urban Design Guidelines. Site Plan Control will be applied to ensure the consideration of this feature in specific developments.
6. City Council, in conjunction with the Board of Education, will consider appropriate plantings such as trees around the grounds of Central Public School, to provide a buffer.
7. The Urban Design Committee, in the Urban Design Guidelines, will advise on building setbacks, facilities for pedestrians and relationship of buildings to street and to adjacent buildings.
8. City Council will ensure that the Urban Design Committee has input to the Traffic and Planning Departments study of front lawn conversions.
9. City Council will budget for and provide for maintenance and upgrading of the MacNab Street tunnel under the TH&B tracks, in the short term. The existing crossing will be reviewed in the long run to determine alternatives which provide safe, convenient access to James Street South from the downtown.
10. City Council will budget for and authorize wind studies on pedestrian streets such as Park and Bay to recommend measures to mitigate the effects of wind on pedestrians, which will be considered for inclusion in Urban Design standards.
11. City Council will request the Planning Department to assist the Regional Police Department and Durand Neighbourhood Plan Implementation Committee in the introduction and maintenance of crime prevention design features and programs. The potential improvements to neighbourhood security provided by closures of short sections of streets will also be considered.

Objective 2 - Preservation of Historic and Architectural Character

The unique historic and architectural character of Durand Neighbourhood will be conserved and enhanced. New development will be compatible with historic and architecturally significant buildings and areas to create a cohesive environment sensitive to the texture of the old while meeting the needs of present and future users.

Policies

1. Landmark buildings will be preserved, restored, enhanced and designated under the Ontario Heritage Act, where appropriate. Other important buildings should be retained wherever possible. Priorities for protection will be based on the significance of the building in architectural and historic terms, the threat of demolition and the willingness of the owner to comply with protection by means such as designation. The existing streetscape formed by landmark buildings and other important buildings in conjunction with surrounding trees and landscaping will be retained.
2. Districts of architectural and/or historic value will be conserved and enhanced. Small areas of predominantly residential use will be identified for study. Policies developed will elaborate on the planning framework of the Durand Neighbourhood Plan with an emphasis on conservation of heritage attributes. Priorities for study as heritage conservation districts will be based on the historic and/or architectural significance of the areas, the threat of destruction and the willingness of the owners to comply with protection.
3. Conservation measures for James Street South will be considered as part of a study examining other urban design matters, land use and movement. In the interim new development on James Street South will be restricted to infilling and minor changes which reflect the character of the older buildings. The existing streetscape will be retained where several attractive buildings form a desirable view.
4. Appropriate innovative combinations of old and new buildings will be encouraged as an alternative to demolition and comprehensive redevelopment. New buildings in the vicinity of heritage buildings and areas will be compatible in scale, height, proportions, material and style.
5. Appreciation of Durand's architectural heritage in Durand will be improved through means such as a public awareness program.
6. The increasing importance of heritage conservation will be recognized in planning decisions although other planning objectives will be given due consideration.
7. An attempt will be made to strengthen incentives and controls for building and area conservation.

Actions

1. City Council, through LACAC, will designate buildings and areas (under Parts IV and V of the Ontario Heritage Act) as appropriate, with the awareness and co-operation of owners. This will help to protect the buildings and areas, and provide time to negotiate a solution to the threat of demolition. The results of the current review of the Ontario Heritage Act will be considered.
2. City Council, through LACAC, will set priorities for the designation of buildings in Durand. City Council, through LACAC will set priorities for heritage district studies in Durand for preparation after the current McNab Heritage District Study.
3. City Council, through LACAC and/or Planning or other relevant departments, will use the following mechanisms to prevent destruction of buildings and areas of historic and architectural importance:

- demolition control (Section 3 of the Planning Act)
- interim control (Section 37 of the Planning Act)
- transfer of development rights
- modification of zoning standards
- allowance of uses in the zoning which would help preserve the building
- provision of bonuses in the zoning
- deletion of permitted uses from the zoning which would create pressure for redevelopment
- site plan control for new buildings and major redevelopment
- public acquisition or acquisition of easements preventing demolition
- conversion to condominiums
- incentives such as taxes, grants, loans, provision of streetscaping or other service
- transfer of building to another site, as a last resort

These and other mechanisms will be applied appropriately to individual cases.

4. City Council will include in the "E" zoning study the modification of zoning to protect areas of historic and architectural interest.
5. City Council, through LACAC, will have a study conducted to establish ways of strengthening controls and incentives for building conservation.
6. City Council, through LACAC, will encourage publicizing Durand's built heritage.
7. City Council, through LACAC, will have a study prepared on a City-wide basis outlining the benefits of heritage district designation, especially aspects such as increased business, tourism, pedestrian activity and tax assessments.

5. COMMUNITY PARTICIPATION

5. COMMUNITY PARTICIPATION

Community participation is the ongoing involvement of local residents and business people in the decisions which affect their lifestyle, quality of life, health of their business and enjoyment of their surroundings.

Community participation is a citizen's right and is an important part of the planning process.

Objective - Active Community Participation

Community participation should be continued and expanded throughout the Durand Neighbourhood so that all residents are aware of issues and have the opportunity to voice their opinions and influence decisions.

Policies

1. Implementation of the policies in this plan will be undertaken with the assistance and advice of a specially formed Durand Neighbourhood Plan Implementation Committee which will work in conjunction with the Durand Neighbourhood Association and other interested residents.
2. All significant planning decisions in Durand Neighbourhood will be discussed with the Durand Neighborhood Association and other affected or interested residents. This Association is a separate non-government affiliated rate payer's group, providing independent input on planning matters.
3. Consideration will be given to the enforcement of the requirement that building permits be posted. A recent City initiative adopted in March, 1987, requires that public notice signs be posted on properties where applications for zoning and/or official plan amendments have been received and are being considered by the City.

Actions

1. City Council will establish a Durand Neighbourhood Plan Implementation Committee to ensure implementation of the policies in this Plan. This Committee will include members of the Durand Neighbourhood Association, in conjunction with LACAC, CAPIC and other interested neighbourhood citizens. The Durand Neighbourhood Plan Advisory Committee will assist in the formulation of the Implementation Committee.
2. City Council will request the Planning and Development Committee to ensure that the Durand Neighbourhood Association and interested residents are notified of all planning proposals in Durand with the opportunity to comment at appropriate times.
3. City Council will request the Planning and Development Committee to investigate and implement the request for posting of signs concerning zoning applications in Durand.
4. City Council will held public meetings for significant government projects in Durand.

APPENDICES

APPENDIX A

GLOSSARY OF TERMS

BLOCK PARENT PROGRAM:	A program to increase safety and security for children, through the designation of "safe" homes where they can seek refuge in emergency situations.
BUSINESS IMPROVEMENT AREA:	A retail commercial area designated for improvement, beautification and maintenance of municipally owned lands, buildings and structures. Funds are raised by a levy on all businesses within the area.
COMMERCIAL:	Land use or activity related to the buying and selling of goods and services. Commercial land use includes retail and office uses.
CONDOMINIUM CONVERSION:	The change in tenure of apartment units, from rental to ownership. In Hamilton-Wentworth, such conversions are subject to approval by the municipality and are granted only when they will not adversely affect the supply of rental housing, and when rental vacancy rates are not extremely low.
DEMOLITION CONTROL:	The City of Hamilton was placed under demolition control on December 10, 1974 which has the effect of allowing the city to use two ways of discouraging demolition of buildings containing dwelling units, unless redevelopment is going to take place shortly afterwards. The purpose is to prevent old houses from being torn down prematurely.
HIGH-RISE DEVELOPMENT:	Development resulting in buildings generally higher than six storeys, depending on context.
HOLDING BY-LAW:	A type of zoning by-law where no development is permitted. This gives the municipality control over the timing of development, while the developer and the neighbours have the assurance of knowing future zoning.
HOME OCCUPATION:	A business operated by family members within their primary place of residence, limited to the sale of goods and services produced on-site. These operations have limited floor space and signage. No outside help other than relatives would be permitted under the Zoning By-law. Examples include realtors, dance studios, and professional offices.

- INFILLING: The building on or development of vacant space between existing buildings or developments. The space is generally equivalent in size to adjoining properties on either side but may be as small as one building lot between two large buildings. Infilling may also take place at the rear of properties.
- INSTITUTIONAL: Land use or activity related to cultural, entertainment, religious, educational, governmental or recreational functions. Institutional uses generally operate on a non-profit basis as a service to the community.
- INTERIM CONTROL BY-LAW: In order to gain time to undertake a study of a problem, a municipality may introduce a by-law which allows no new development in an area. The maximum time such a by-law may remain is two years. It is still possible for individual applications to be processed through amendments to the freezing by-law while it is in effect.
- INTEGRATED SOCIAL HOUSING: Housing funded by various levels of government which is interspersed with other types of housing so that a mix of income groups results. An example is municipal non-profit housing.
- LANDMARK BUILDINGS: Buildings of special importance due to their architectural, historical or other unique features, and listed by LACAC.
- LACAC: Local Architectural Conservation Advisory Committee. Its function is to advise the City Council on matters concerning the preservation of buildings and districts of architectural and historical significance.
- MIXED USE DEVELOPMENT: A development which combines more than one type of land use in the same building, such as commercial (retail) and apartments. The advantages of such mixed uses include reduction in traffic generation, and increased convenience for local residents.
- NEIGHBOURHOOD PARKS: Open space areas usually between four and ten acres in size. Participants live within walking distance of the park, giving it a service radius of one-quarter to one-half mile. Larger parks contain facilities for all age groups and smaller parks usually serve a particular age group. The emphasis is on passive recreation. Neighbourhood parks are best located beside, or combined with, elementary schools and in the centre of neighbourhoods. Included in this category are: parkettes, tot lots and elementary school play areas.

- NEIGHBOURHOOD
WATCH: A community-based crime prevention program promoted by the Police Department. Residents are informed of crime prevention techniques and are encouraged to watch over each other's properties and be alert to any suspicious behaviour.
- RESIDENTIAL
CARE
FACILITY: Fully detached residential building occupied wholly by a maximum number of supervised residents residing on the premises as a group because of social, emotional, mental or physical handicap or personal distress.
- RESIDENTIAL
NEIGHBOURHOODS: Areas of the City where the primary land use is associated with living or housing of all types from single-family dwellings to apartment units.
- STREETSCAPE: The appearance of a section of street, including buildings, trees, other landscaping, signage, pedestrian areas, etc. The streetscape concept indicates that the overall appearance of the street is influenced by each of these components.
- SITE PLAN
CONTROL: Development control over site design features of a development, including grading, landscaping, access, parking lot layout, building design and overall site design, site plan control is authorized under Section 40 of The Planning Act.
- VERTICAL
WATCH: A crime prevention program similar to Neighbourhood Watch, geared specifically to the needs of residents in high-rise apartment buildings.
- WOONERF: A road on which pedestrians are given priority over vehicles through design. A number of design features are incorporated to slow the vehicular traffic and attract pedestrians. These include strict speed limits, special paving, pedestrian-oriented paving materials, placement of bollards, signs, street furniture, etc. This concept is illustrated in Appendix D.
- ZONING BY-LAW: A municipal by-law to control the use of land and buildings and to regulate the height, bulk, location, size, floor area, spacing, character and use of buildings or structures. Typically, a zoning by-law will define different zones on a map, each with its own list of permitted uses and minimum lot sizes, frontages and yard or set-back dimensions, maximum building height, minimum number of parking spaces, etc.

ZONING
CATEGORIES:

- "CR" ZONING: Permits commercial and residential uses with a maximum floor area ratio of 2.85 and up to 252' or 77.0 metres in height.
- "E" ZONING: Permits multiple dwellings, lodges, clubs, etc. Maximum floor area ratio is 1.7 times coverage, maximum height is 128 feet or 12 stories, and 25% landscaping required.
- "E-1" ZONING: Permits multiple dwellings, lodges, clubs, etc. as for "E" zoning, but excepting a district yard of the City Corporation. Same floor area ratio, height and landscaping as for "E" zone.
- "E-2" ZONING: Permits multiple dwellings, public uses, etc. Maximum floor area ratio is 1.19 times coverage, maximum height 12 stories, 25% landscaping.
- "E-3" ZONING: Permits high density multiple dwellings. Maximum floor area ratio is 2.55 times coverage, maximum height is 187 feet or 18 stories, 40% landscaping required, with landscaping bonuses available.
- "I" ZONING: The Central Business District Zone which includes most of the downtown. It permits a wide range of commercial, industrial and residential uses at 11 times coverage and up to 328' or 100 metres in height.

APPENDIX B

M A P S

MAP INTERPRETATION

MAP 1 - Durand Neighbourhood Plan 1986

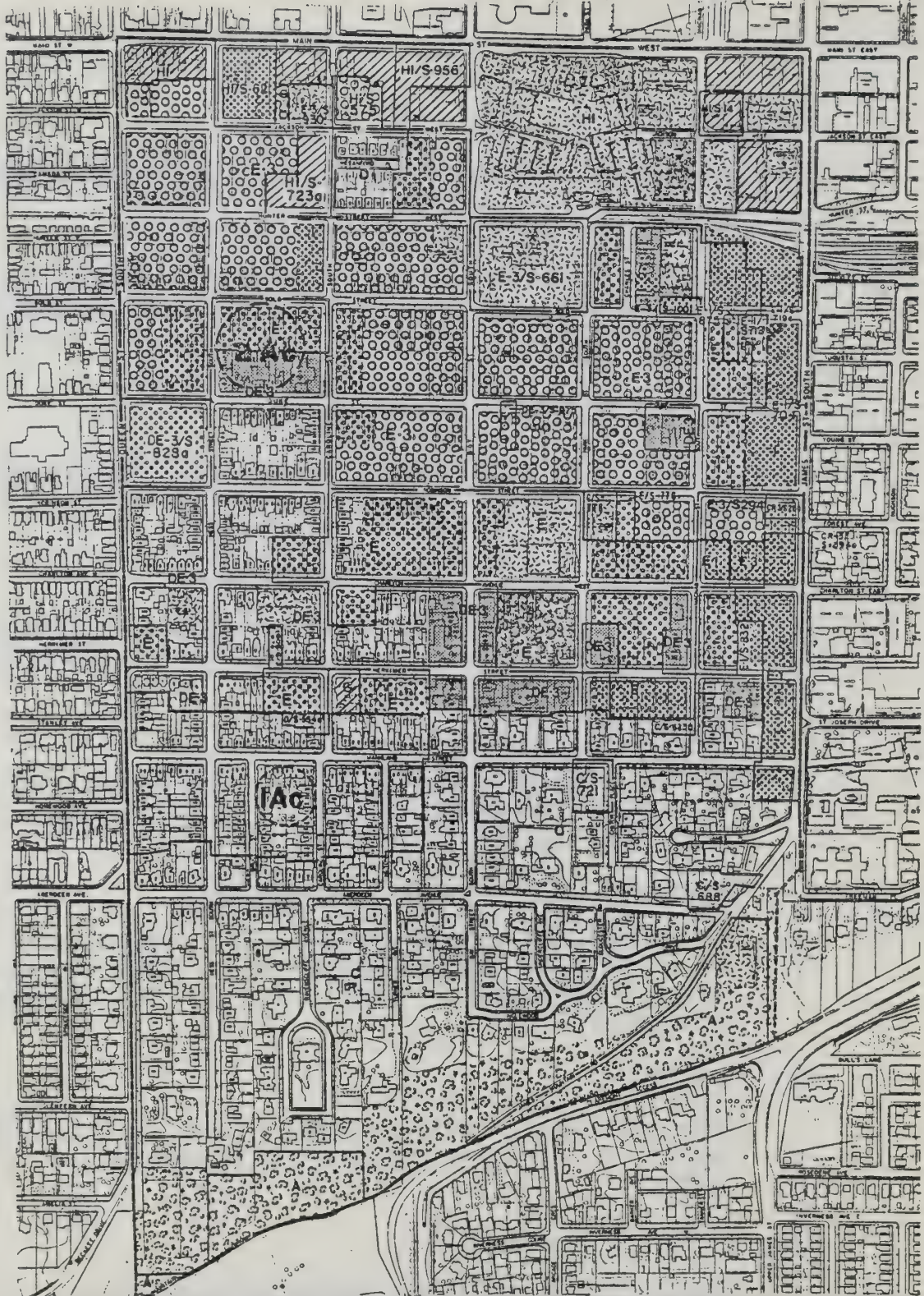
MAP 2 - Amendments Required as a Result of the
Neighbourhood Plan Review 1986

MAP 3 - Rezoning Required as a Result of the
Neighbourhood Plan Review 1986

MAP INTERPRETATION

Land use designations shown on Maps 1 to 3 are defined as follows:

1. Residential - single, double and attached housing
Housing in the form of one and two family dwellings and row housing generally not exceeding 8 units per acre. Zoning is generally 'C' (Single Family Residential) and 'D' (One and Two Family Residential).
2. Residential - low density apartments
Housing in the form of low-rise apartment buildings not exceeding 3 storeys in height or 24 units per acre. Zoning is generally 'DE-3' (Multiple Dwellings).
3. Residential - medium density apartments
Housing in the form of medium density apartment buildings not exceeding 12 storeys or 40 units per acre. Zoning is generally 'E-2' or 'E' (Multiple Dwellings).
4. Residential - high density apartments
Housing in the form of high density apartment buildings from 18 to 24 storeys in height or 100 units per acre. Zoning is generally 'E-3' (High Density Multiple Dwellings).
5. Commercial and Apartments (Conservation)
Mixed commercial/residential use usually with stores or offices on the ground floor with apartments above. Zoning is generally 'E-1' (Multiple Dwellings) or 'CR-1', 'CR-2' or 'CR-3' (Commercial - Residential).
6. Commercial
Commercial uses, primarily stores, offices and entertainment facilities. Zoning is generally 'H' (Commercial) or 'I' (Central Business).
7. Civic and Institutional
Major cultural facilities, health, welfare, educational, religious and government activities and related uses.
8. Park and Recreational
Public open space used for sports and active recreational activities, visual enjoyment and passive recreation.
9. Open Space
Public open space used for passive or quiet recreation such as hiking.



NOTE:
* SECOND FLOOR OF SCHOOL CONVERTED AND USED
FOR BUSINESS AND PROFESSIONAL OFFICES -
OFF-STREET PARKING PROVIDED ON PROPERTY



PUBLIC OPEN SPACE TO BE PROVIDED IN
THE VICINITY OF THE DESIGNATED SYMBOL.
THE PARTICULAR LOCATION OF WHICH
SHALL BE DETERMINED AT SUCH TIME AS
FUNDS ARE AVAILABLE FOR ACQUISITION.

MAP 1

DURAND NEIGHBOURHOOD PLAN

APPROVED PLAN
1987

LAND USE

RESIDENTIAL

- single, double & attached housing
- low density apts.
- medium density apts.
- high density apts.
- commercial & apts.

COMMERCIAL

- CIVIC & INSTITUTIONAL
- PARK & RECREATIONAL
- OPEN SPACE

Neighbourhood Boundary
Zoning Boundary
Staging at Development
Boundary

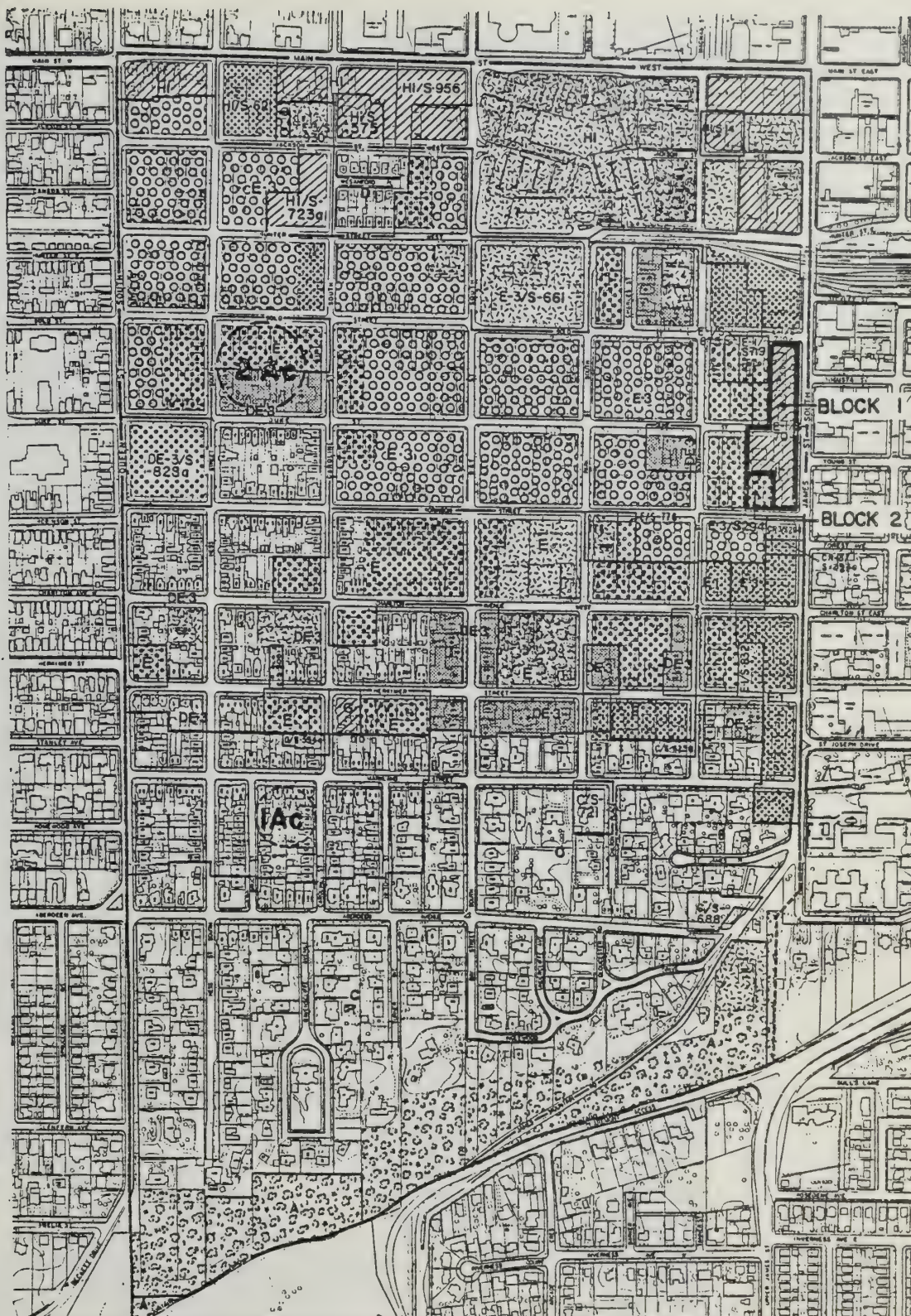
Approved
Planning Bd. NOV/87 Council DEC/87
Revisions

CITY OF HAMILTON
PLANNING DEPARTMENT

DURAND
APPROVED PLAN



SCALE IN FEET



MAP 2

DURAND NEIGHBOURHOOD PLAN

AMENDMENTS REQUIRED AS A RESULT OF THE
NEIGHBOURHOOD PLAN REVIEW 1986

BLOCK 1: FROM "COMMERCIAL" TO
"COMMERCIAL AND APARTMENTS"

BLOCK 2: FROM "MEDIUM DENSITY APART-
MENTS" TO "COMMERCIAL AND
APARTMENTS"

LAND USE

RESIDENTIAL

- single, double & attached housing
- low density apts.
- medium density apts.
- high density apts.
- commercial & apts.

COMMERCIAL

- CIVIC & INSTITUTIONAL
- PARK & RECREATIONAL
- OPEN SPACE

- Neighbourhood Boundary
- Zoning Boundary
- Staging of Development Boundary

Approval
Planning Bd. NOV/73 Council DEC 18/73
Revisions

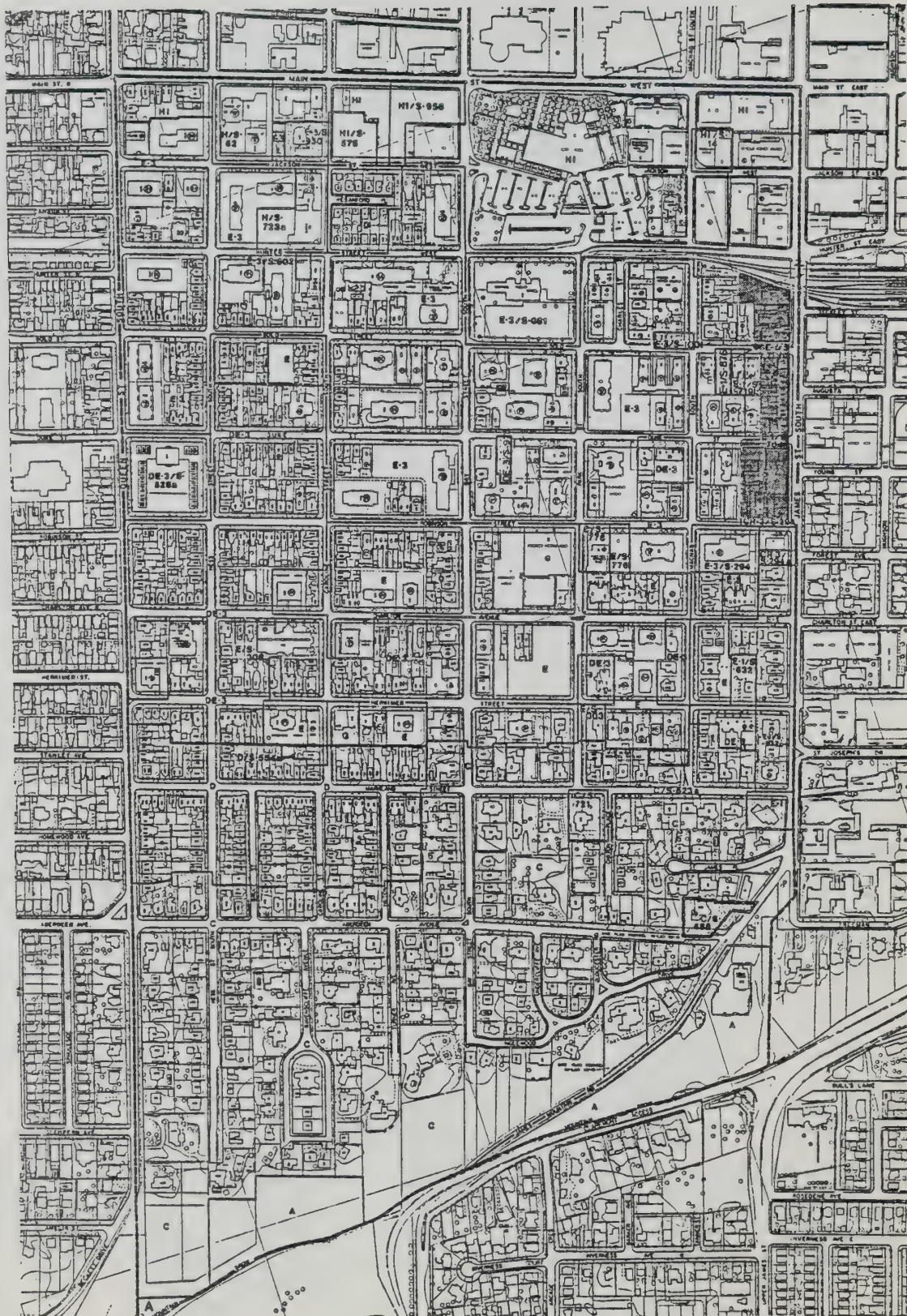
REVISION	DATE	BY	FOR
FEBRUARY 1976			
DEC 3, 1977			
APRIL 6, 1978			
JUNE 6, 1978			
FEB 22, 1979			
MAY 15, 1979			

CITY OF HAMILTON
PLANNING DEPARTMENT

DURAND
APPROVED PLAN




SCALE 1:10,000
MAY 1979



MAP 3

DURAND NEIGHBOURHOOD PLAN REZONINGS REQUIRED AS A RESULT OF THE NEIGHBOURHOOD PLAN REVIEW 1986

 CHANGE FROM "I" (CENTRAL BUSINESS DISTRICT)
TO "E-1" (MULTIPLE DWELLINGS, LODGES, CLUBS, ETC.)

104	21	10
92	41	31
93	123	22

This is not a Legal Document
For Zoning Verification Please
Contact City Building Department.

Neighbourhood Boundary
Zoning Boundary

Prepared for The City of Hamilton
by the Planning and Development Department
of The Regional Municipality of Hamilton Township

CITY OF HAMILTON

DURAND
ZONING

SCALE 1" = 100'

June 1985

8701

41

APPENDIX C

DURAND NEIGHBOURHOOD PLAN
STUDIES ARISING AND ASSOCIATED PRIORITIES

	<u>Priority</u>
<u>RESIDENTIAL</u>	
1) "E" Zoning Study - preparation of terms of reference and staff assistance with study of high density residential areas, to determine most appropriate land uses and densities (Planning Department and contract staff)	High
2) Holding Zone By-Law - preparation of by-law, to prevent construction of high density residential buildings until "E" zoning study complete (Planning Dept.)	High
3) Infilling Opportunities - study to determine potential for compatible redevelopment, appropriate requirements and design guidelines (Planning Dept.)	Medium
4) Zoning and Building Code Provisions - study to examine provisions, to increase supply of affordable housing by means of modified standards (Planning and Building Dept.)	Low
5) Open Areas under Apartment Buildings - study to determine potential for creation of additional residential units in these areas (Planning and Building Dept.)	Low
<u>COMMERCIAL</u>	
1) James Street South - study of land use, traffic, parking, heritage resources and urban design, to develop detailed plan of action for area (Planning Dept. and consultant)	High
2) TH&B Area Study - land use study of the area surrounding TH&B station, if chosen as GO rail terminus, to determine appropriate land use and development (Planning Dept.)	Medium
<u>PARKS, RECREATIONAL AND OPEN SPACE</u>	
1) Durand Park Facilities - study of park facilities, including Durand Park, to determine if facilities are adequate (Parks Sub-Committee and other Depts.)	Medium

- | | | |
|----|--|------|
| 2) | Durand Alley Beautification Study - implement recommendations for creation of public open space areas, pedestrian linkages and vehicular access (Planning Dept.) | High |
| 3) | Parkettes - study of road closures and the creation of parkettes at intersections, to reduce traffic and provide park space (Traffic Consultant) | High |

CIVIC AND INSTITUTIONAL

- | | | |
|----|---|--------|
| 1) | Group Homes and Residential Care Facilities - review of related policies and regulations, to ensure that requirements are adequate, impacts mitigated, and liaison Committee established to resolve concerns (Planning Department and Implementation Committee) | High |
| 2) | Liaison re Group Homes and Care Facilities - liaison committee to resolve concerns and needs, especially re recreational facilities (Plan Implementation Committee, agencies) | Low |
| 3) | Facilities for Seniors - study of existing seniors facilities, to determine possible improvements; also determine facilities needed for seniors (Planning Dept., Social Planning and Research) | Medium |
| 4) | Central Public School - liaison to ensure that any plans for changes to the school or enrolment are discussed in advance with all affected (School Board, Implementation Committee, etc.) | Medium |
| 5) | Community Centre - evaluate the potential for building a modern community centre at Central Public School (School Board, City Departments) | Low |
| 6) | Tourist Guest Homes - study of special requirements, especially parking, to permit such homes (Planning and Traffic Departments) | Low |

TRAFFIC AND TRANSIT

- | | | |
|----|--|------|
| 1) | Durand Traffic Study - assess existing traffic conditions in Durand, recommend possible improvements, especially for reducing through traffic (Traffic Consultant) | High |
| 2) | Turning Restrictions - introduce restrictions on traffic turning from arterial roads into the neighbourhood, to reduce through traffic (Traffic Dept.) | High |

- | | | |
|----|---|--------|
| 3) | Signage for parking - study ways of improving signage for parking areas for Colliseum (Traffic Dept.) | Medium |
| 4) | Woonerf - study and implement an experimental woonerf closure on Park Street (Traffic Dept.) | Low |
| 5) | Bicycle System - prepare a detailed bicycle system for Durand's roads and alleys, including exclusive routes, mixed-vehicle routes and related facilities (Bicycle Committee, etc.) | Low |
| 6) | Transit Service - review transit service, to determine possible improvements to routes, connections, amenities, types of vehicles (Transportation Dept.) | Medium |

PARKING

- | | | |
|----|--|--------|
| 1) | Parking Study - examine on-street and off-street parking demand and supply; recommend possible improvements and innovative approaches (Traffic and Planning Depts.) | High |
| 2) | Front-lawn parking - study conversions of front lawns to parking spaces, to establish policies and criteria related to design and suitability (Traffic and Planning) | High + |
| 3) | Public Parking Facilities - evaluate possible use of Central Public School lot for paid parking lot; also possible optimization of City Hall parking lot (Traffic) | Low |

PEDESTRIAN FACILITIES

- | | | |
|----|---|--------|
| 1) | Durand Alley Beautification Study - review, prioritize and implement recommendations of this 1986 study, allowing for public participation (Planning and Public Works Depts.) | High |
| 2) | Pedestrian Needs Study - study possible improvements to facilitate and amenities to provide comfort, especially for seniors (Planning, Traffic and Public Works Depts.) | Medium |
| 3) | MacNab Street Tunnel - review existing crossing, to determine alternatives and interim maintenance requirements to provide attractive access (Planning Dept., etc.) | Medium |

ENGINEERING

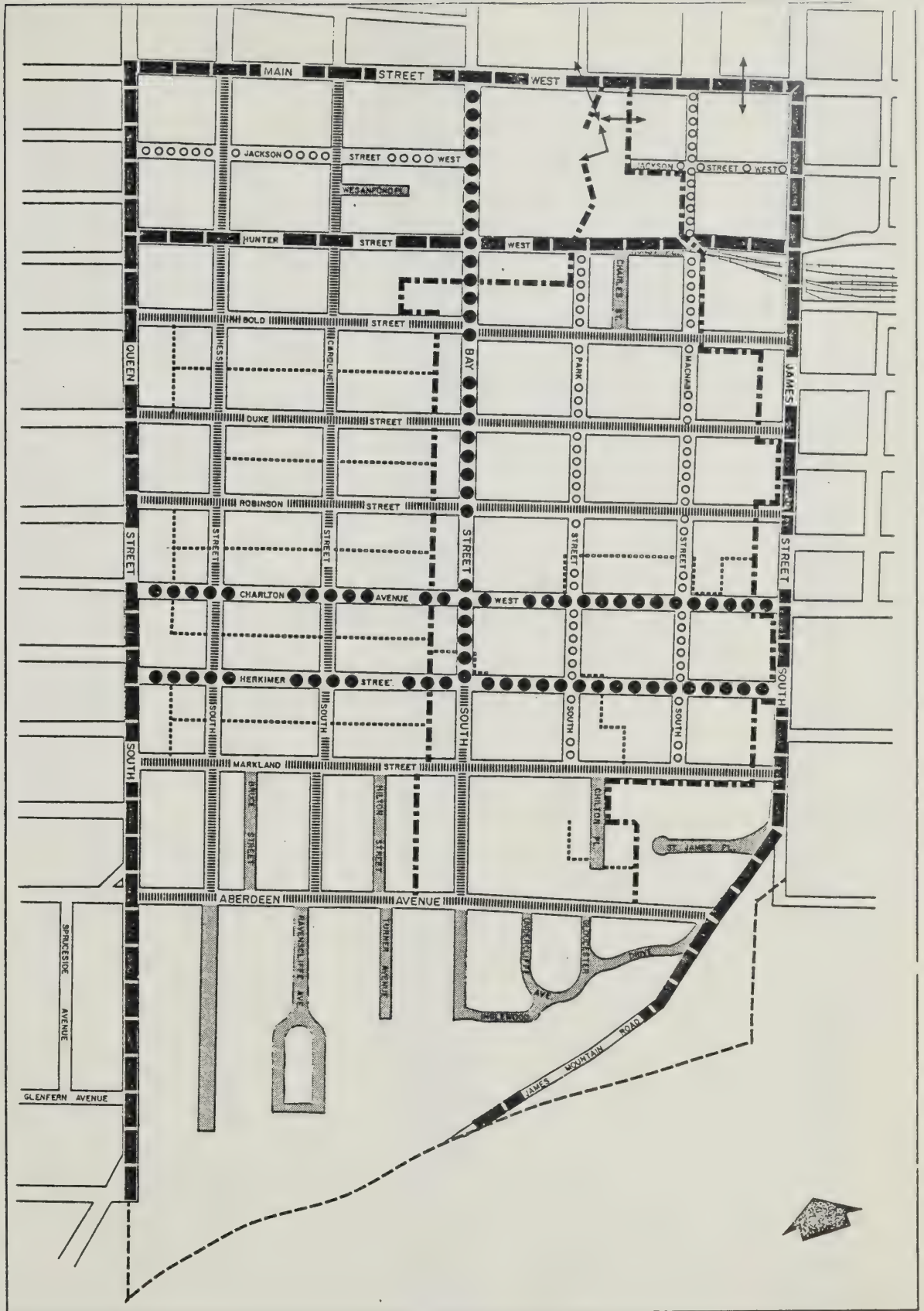
- | | | |
|----|--|------|
| 1) | Improvement of services - action will be taken to improve services, including separate storm and sanitary sewers, underground wiring, etc. (Engineering and Public Works Depts.) | Low |
| 2) | Tree Planting and Maintenance - prepare program for tree planting; ensure proper tree maintenance, protection and replacement (City Arborist, etc.) | High |
| 3) | Roadway Drainage - improve drainage problems affecting specific roadway sections in Durand (Engineering and Public Works Depts.) | High |

URBAN DESIGN

- | | | |
|----|---|------|
| 1) | Urban Design Committee - prepare architectural and urban design guidelines, with regard to Escarpment views and human scale (Planning Dept., etc.) | High |
| 2) | Wind Studies - prepare wind analysis for pedestrian streets such as Park and Bay, to recommend measures for mitigation of wind effects (Planning Dept., etc.) | Low |
| 3) | Heritage Awareness - publicize heritage through an awareness program, using plaques, walking tours, news articles, etc. (LACAC) | Low |
| 4) | Heritage Conservation - Heritage buildings and districts will be preserved, by means such as designation. Methods of strengthening controls will be studied | High |

COMMUNITY PARTICIPATION

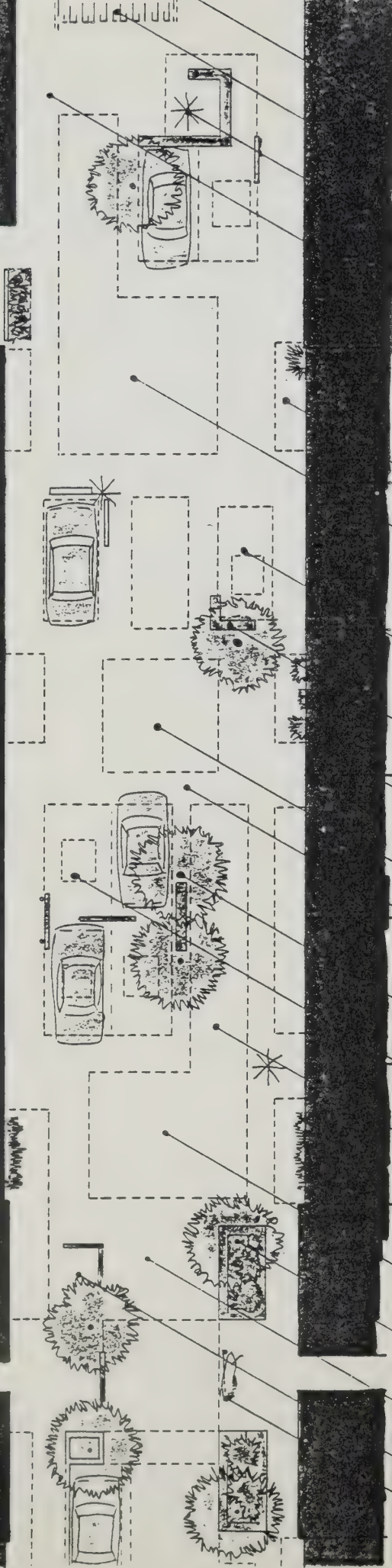
- | | | |
|----|--|--------|
| 1) | Circulation of Durand Citizens - ensure that citizens of Durand, including the Durand Neighbourhood Association are informed of planning proposals, in order to comment (Planning Dept.) | High |
| 2) | Durand Neighbourhood Plan Implementation Committee - establish Committee to implement Plan, including members of existing committees and residents (Planning Dept.) | High + |
| 3) | Posting of signs for zoning applications and building permits - consider request to post signs to ensure public awareness of such applications (Planning Dept.) | Medium |



APPENDIX D DURAND NEIGHBOURHOOD TRAFFIC SYSTEM HIERARCHY

- | | | | |
|-------|-----------------|-----------|-------------------------------|
| ————— | MAJOR ARTERIALS | ○ ○ ○ ○ ○ | PEDESTRIAN-ORIENTED |
| | MINOR ARTERIALS | ----- | MAJOR ALLEY LINKS |
| ————— | COLLECTORS | | MINOR ALLEY LINKS |
| ----- | LOCALS | ↔ | +15 OVERHEAD PEDESTRIAN LINKS |

APPENDIX E
WOONERF CONCEPT



No Continuous Curb

Private Access

Bench Around Low Lighting column

Use of Varied Paving Materials

Private Footway

Bend in the Roadway

Empty Parking Lot: Place to Sit or Play in

Bench / Play Object

On Request: Plot with Plants in Front of Facade

Bend in the Roadway

No Continuous Roadway Marking on the Pavement

Tree

Clearly Marked Parking Lots

Bottleneck

Bend in the Roadway

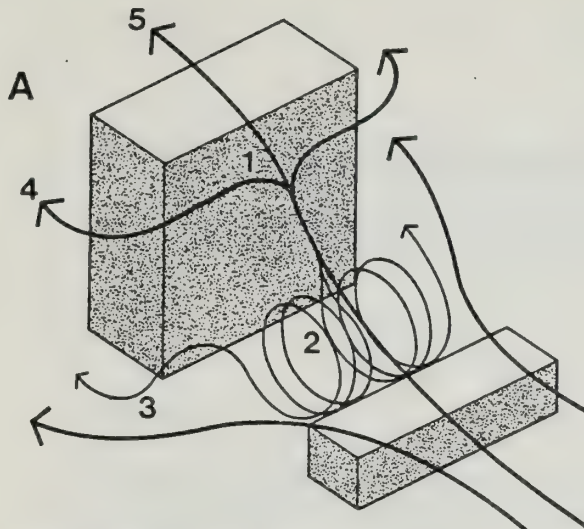
Plant Tub

Space for Playing from Facade to Facade

Parking Prevented by Obstacle

Fence for Parking Bicycles, etc.

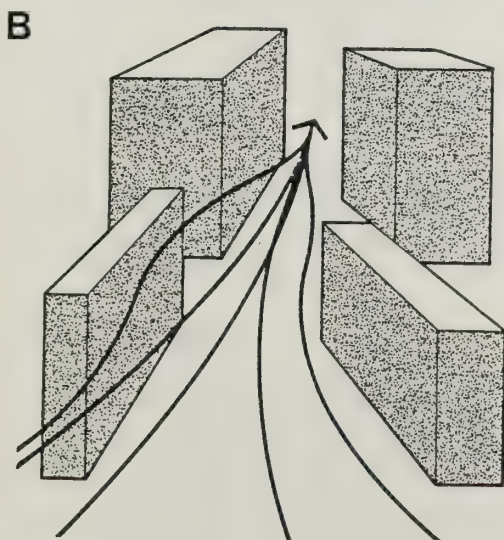
APPENDIX F
WIND PROBLEMS AND SOLUTIONS



Typical Wind Flow Pattern around a High-rise Building:

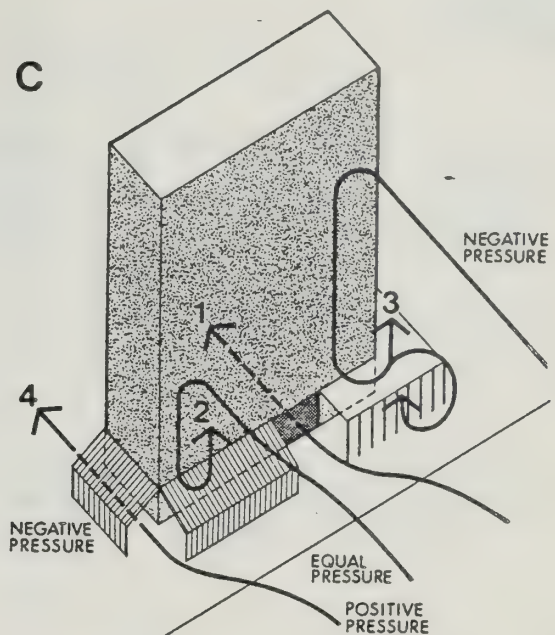
1. Stagnation zone where wind flows separate.
2. "Downwash" vortex with high velocities at the base of the building.
3. Corner vortex where high velocities occur due to flows into a low-pressure area.
4. Negative pressure dependent on velocity at top of building.
5. Upstream positive flow.

Strong upper-level winds on the building face will also be deflected downwards and accelerate around the corners of a building. Adding landscaping, canopies, podiums and windscreens are remedial measures for existing buildings. Properly designing the building in terms of wind conditions for the area at the planning stage is the preferred solution.



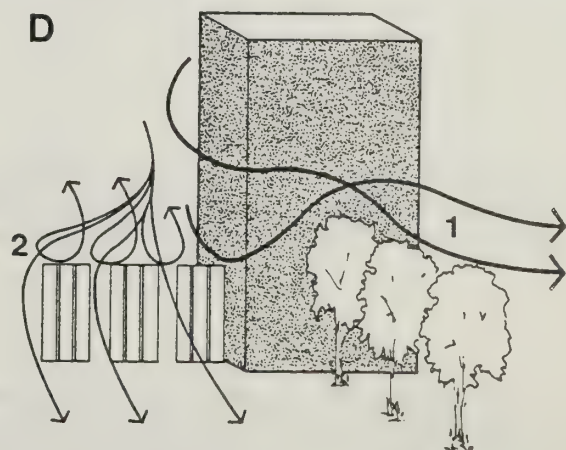
The Venturi Effect

The Venturi Effect can create very severe pedestrian-level wind conditions around tall and relatively low buildings, both of which funnel the wind.



Typical Effects caused by Design Considerations to a High-rise Building at Grade

1. An open passageway through a tall building creates an uncomfortable condition in the passageway and reduces the sheltered condition behind the building. The taller the building, the greater the effect.
2. Enclosed passageway will deflect "downwash" winds.
3. Podiums and canopies will deflect "downwash" winds but may also magnify the wind under the canopy.
4. An open canopy in a windward direction will magnify the pedestrian-level wind. Doors may be difficult to open.



Typical Wind Reduction Remedial Measures for a High-rise Building

1. The impact of "downwash" and cornerstream winds can be reduced by introducing landscaping features.
2. Windscreens can help to break up the wind, thereby allowing the pedestrian to be gradually introduced to a windy area, i.e. mid-block pedestrian connections.

16a

F O R A C T I O N

From: PLANNING AND DEVELOPMENT DEPARTMENT

Date: April 21, 1987

To: PLANNING AND DEVELOPMENT COMMITTEE

Refer to File No. SA-86-28

Attention of V. J. Abraham

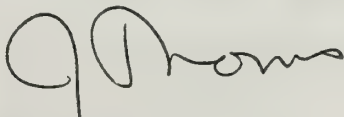
SUBJECT

Request to waive the requirement of an Environmental Impact Statement (E.I.S.) for the westerly portion of a proposed plan of subdivision, "Hixon Road", Regional File No. 25T-86045, owned by F. DeClerico, City of Hamilton.

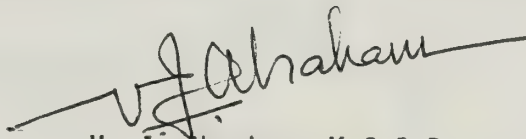
RECOMMENDATION

That the City of Hamilton waive the requirements of an Environmental Impact Statement for the Residential use of the affected lands included in the proposed plan of subdivision, under Regional File No. 25T-86045, in the City of Hamilton and request council of the Regional Municipality of Hamilton-Wentworth to endorse this waiver.

Respectfully submitted



J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development



V. J. Abraham, M.C.I.P.
Director
Local Planning

LOCATION

The lands affected are north of Hixon Road, west of Mount Albion Road, south of the T.H. & B. Right-of-way and is abutting the proposed alignment of the Red Hill Freeway, being Part of Lot 32, Concession 4, in the City of Hamilton.

BACKGROUND

The lands are not within the Development Control Area of the Niagara Escarpment. The Hamilton Region Conservation Authority would support the proposed development subject to conditions dealing with grading drainage and flood control. The proposed development is in accordance with the Regional Official Plan and the City of Hamilton Official Plan, but requires, in both Official Plans, the preparation of an Environmental Impact Statement (E.I.S) or a waiver.

PROPOSAL

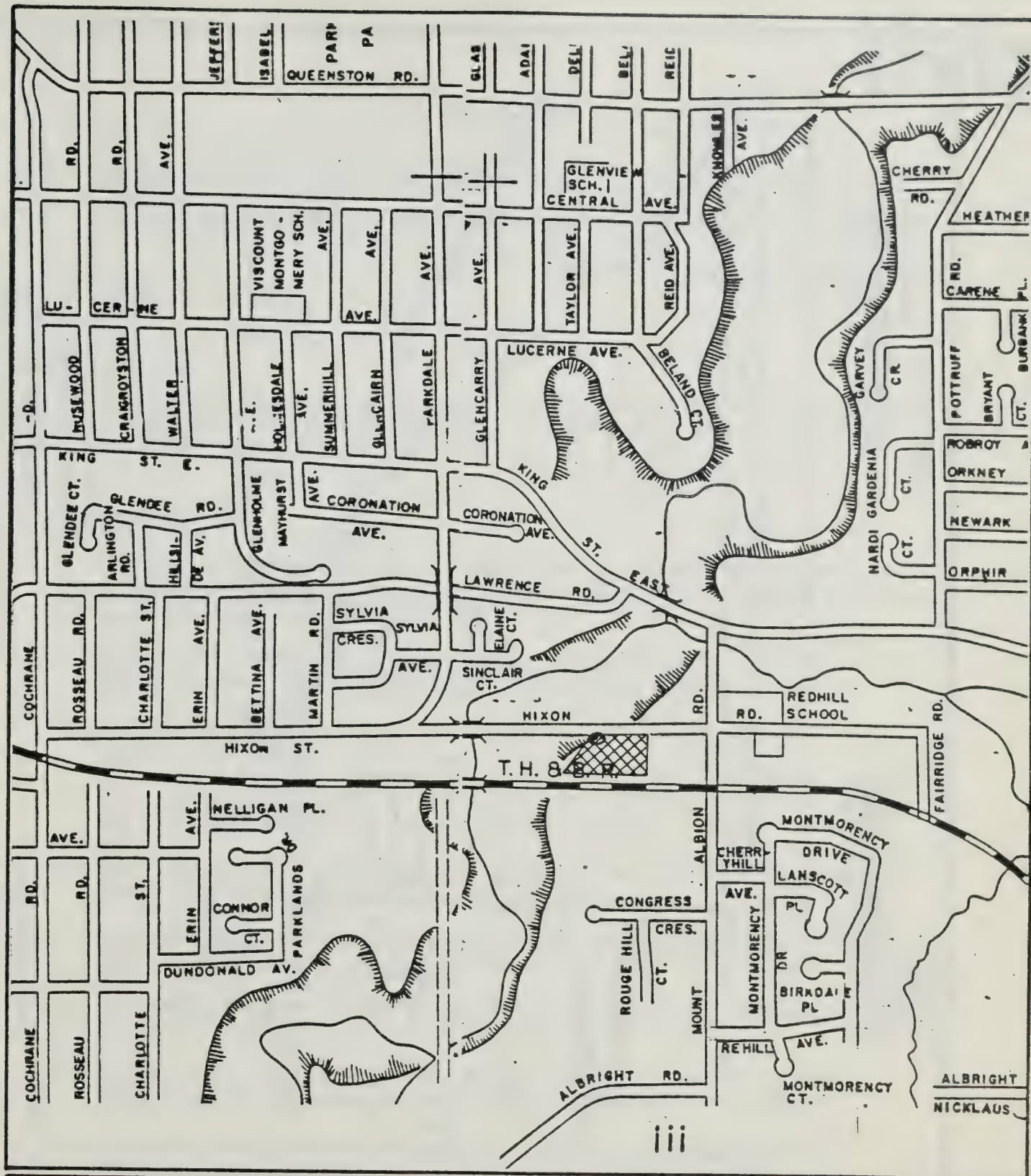
The owner proposes to use the land as part of the road and part of a lot for a single-family dwelling.

COMMENT

The land involved is part of a slope and has secondary insignificant vegetation cover, the use of which would not have an adverse effect on the Environmentally Sensitive Area.

The proposed use of the land will be subject to the conditions of a draft approval for the "Hixon Road" proposed plan of subdivision. The City of Hamilton and the Hamilton Region Conservation Authority will ensure that appropriate setbacks, grading, drainage and flood control will be adhered to through the provisions of the Zoning By-law and the implementation of various conditions of draft approval of the plan of subdivision. Those efforts should result in a minimal impact on the Environmental Sensitive Area, therefore, a waiver to the E.I.S requirement is considered appropriate.

JLS:dc
W.P. Doc. 0029P
Pages 30 - 31



Location Plan For

PART LOT 32, CON. 4
IN THE
CITY OF HAMILTON

Regional Municipality of Hamilton-Wentworth
Planning and Development Department

Legend



PROPOSED SUBDIVISION

North



Scale

N.T.S.

Date

DEC. 26, 1986

Reference File No.

25 T - 86045

Drawing No.

166

FROM: Planning and Development Department DATE: April 21, 1987
TO: Planning and Development Committee Refer to File No. SA-86-28
Attention of V. J. Abraham

SUBJECT

Application to the Region for approval of a draft plan of subdivision Regional File No. 25T-86045, City of Hamilton File No. SA-86-28, to establish 5 lots for single-family dwellings.

RECOMMENDATION

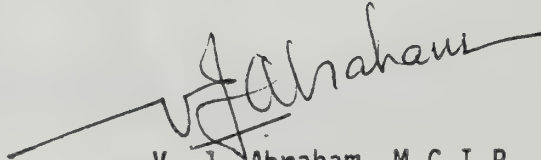
- a) That approval be given for application SA-86-28, F. DeClerico, owner, to establish a draft plan of subdivision at the westerly termination of Hixon Road, south of the T.H. & B. Railway.
1. That this approval apply to the plan prepared by MacKay, MacKay and Peters Limited, dated November 12, 1986 showing 5 lots.
 2. That the road allowance for Hixon Road be dedicated as public highway on the final plan.
 3. That the street be named to the satisfaction of the City of Hamilton and Regional Municipality of Hamilton-Wentworth.
 4. That the proposed subdivision conform with the Zoning By-law approved under The Planning Act.
 5. That the owner make a cash payment in lieu of the conveyance of 5% of the land included in the Plan to the City of Hamilton for park purposes.
 6. That such easements as may be required for utility or drainage purposes be granted to the appropriate authority.
 7. That the owner provide the City of Hamilton with a certified list showing the net area and width of each lot in the final plan.
 8. That the owner agree in writing to satisfy all the requirements, financial and otherwise, of the City of Hamilton.

- b) That subdivision agreement be entered into by the Corporation of the City of Hamilton and the owner to provide for compliance with the conditions of approval established by the Hamilton-Wentworth Region with respect to this application (SA-86-28), F. DeClerico, owners, proposed draft plan of subdivision and that the City execute the agreement when the said conditions have been met and the City's share of the cost of installing municipal services has been approved by City Council.

Respectfully submitted,



J. D. Thoms, M.C.I.P.
Commissioner
Planning and Development



V. J. Abraham, M.C.I.P.
Director
Local Planning

BACKGROUND

Owner

F. DeClerico, Hamilton, Ontario.

Surveyor

MacKay, MacKay and Peters Limited, Hamilton, Ontario.

Location

The lands, comprising 0.6592 ha, are located at the westerly termination of Hixon Road, south of the T.H. & B. Railway and west of Albion Road in the Red Hill Neighbourhood, being part of lot 32, Concession 4, Township of Saltfleet, now in the City of Hamilton.

PROPOSAL

The owner proposes to subdivide the lands into 5 lots for single-family dwellings and a cul-de-sac to service the lots. The lots would be serviced from the proposed cul-de-sac. The minimum lot size proposed would have a width of 15m and an area of 925 m².

EXISTING DEVELOPMENT CONTROLS

Hamilton-Wentworth Official Plan - the lands are identified as "Existing Development" within the "Urban Policy Area" and are within the Environmentally Sensitive "Red Hill Creek - King's Forest". An Environmental Impact Statement or a Waiver approval would be required.

City of Hamilton Official Plan - the lands are designated "Residential" and are subject to the approval of an Environmental Impact Statement or a Waiver.

Neighbourhood Plan - the lands are designated "Residential - Single and Double". The proposal complies, except the proposed cul-de-sac.

Niagara Escarpment - the lands are not within the "Development Control Area", therefore, the regulations do not apply.

Zoning - the lands are zoned "B-1" District, (Suburban Agriculture and Residential etc.). The proposal complies.

COMMENTS FROM CIRCULATION

The following agencies have advised that they have no comment or objection toward the proposal:

Ministry of Municipal Affairs
Ministry of Transportation and Communications
Ministry of the Environment (Subject to standard noise abatement conditions)
Ministry of Natural Resources (Subject to grading, drainage and erosion conditions)
Ministry of Citizenship and Culture (Subject to standard archaeological conditions)
Niagara Escarpment Commission
City of Hamilton Board of Education
Hamilton Region Conservation Authority (Subject to grading and drainage plan)
Ontario Hydro, Union Gas, Bell Canada (with caution regarding existing easement)
City Traffic Department (Subject to lot line changes)
City Building Department

The Hamilton-Wentworth Department of Engineering submitted the following comments and recommendations:

1. A 3m x 3m daylight corner is recommended on the north-west corner of Lot 1.
2. A 15 m noise berm easement be established on Lot 5 adjacent to the proposed freeway.
3. The owner enter into a City and Regional subdivision agreement.
4. The submitted plan is satisfactory to the Departments of Transportation and Engineering.
5. For your information services are available and we do not expect any Regional cost in the development of this plan.

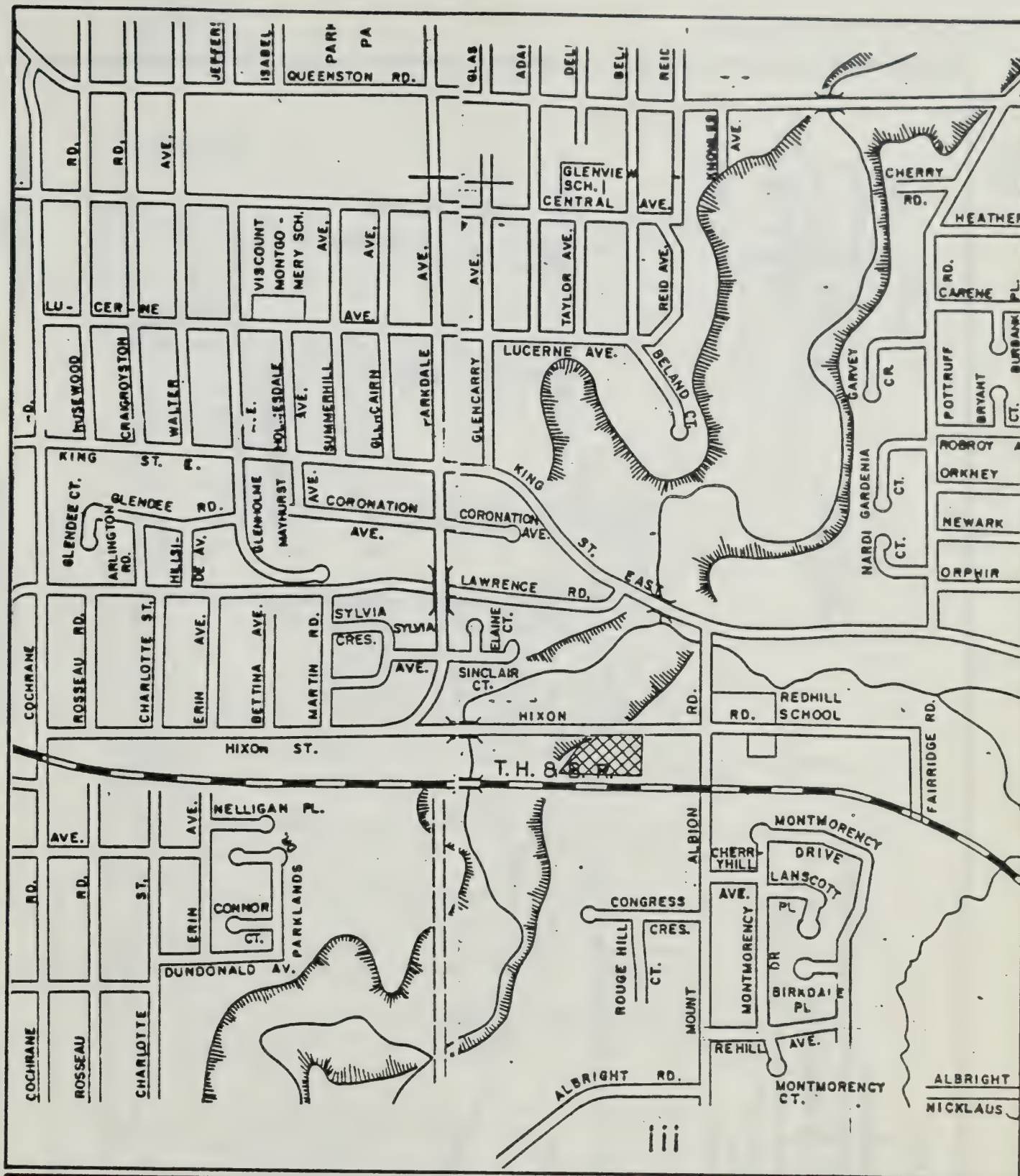
6. For the information of the applicant, a portion of the closed road allowance of Hixon Road may have to be re-opened by the City by By-law. This will be dealt with at the detail design stage through the Transportation and Environment Committees.

The Canadian Pacific Rail is of the opinion that this residential development is not compatible with Railway operations. However, should this proposed plan be approved, Canadian Pacific request that a number of conditions should be imposed. The comments of C.P. Rail are attached as Appendix 'A'.

COMMENTS

1. The conformity of the proposal with the Official Plans and the need for an Environmental Impact Statement or a Waiver, and the need for Zoning By-law and Neighbourhood Plan amendments is noted.
2. As no part of the subject lands is designated for "park and recreational" use on the approved neighbourhood plan, it is recommended that the parkland requirement for this subdivision be taken as cash-in-lieu of land.
3. The requirement of the Ministry of Environment, the Ministry of Citizenship and Culture, the Canadian Pacific Railway and of the Hamilton Region Conservation Authority can be implemented through the conditions of draft approval to be established by the Regional Municipality.

JLS/11
2199P



Location Plan For

PART LOT 32, CON. 4
IN THE
CITY OF HAMILTON

Regional Municipality of Hamilton-Wentworth
Planning and Development Department

Legend



PROPOSED SUBDIVISION

North



Scale
N. T. S.

Date
DEC. 26, 1986

Reference File No.
25 T - 86045

Drawing No.

Richardson

RECEIVED APR 16 1987

CP Rail

ice of the
perintendent

March 13, 1987

Our File: 620.4-WEL-33.50
Your File:

Regional Municipality of Hamilton-Wentworth
Department of Planning and Development
P. O. Box 910
HAMILTON, Ontario
L8N 3V9

Attention: Mr. J. A. Gartner, M.C.I.P.
Director, Regional Planning Branch

Dear Sir:

Re: Proposed Plan of Subdivision
Your File No. 25T-86045
Location: Part Lot 32, Con.4,
City of Hamilton
Mileage 33.50 Welland Subdivision

DEVELOPMENT DIVISION	
FILE NO.	25T-86045
RECEIVED	APR 16 1987
TO	
DIRECTOR	
MANAGER	
CLERK	
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Further to your letter of March 2, 1987, regarding the above-noted subject.


It is the Railway Company's opinion that this residential development is not compatible with Railway operations.

The health, safety and welfare of potential residents could be adversely affected by Railway activities. However, should the proposed subdivision be approved, CP Rail requests the following conditions be imposed on the proposed development.

1. Berm, or combination berm and fence, adjoining and parallel to the Railway right-of-way and having extensions or returns at the ends:
 - (i) Minimum total height 4 meters above top of rail.
 - (ii) Berm minimum height 2 meters and side slopes not steeper than 2.5 to 1.
 - (iii) Fence, or wall, to be constructed without openings and of a durable material, weighing not less than 20 kg. per square meter (4lb./sq.ft.) of surface area.
2. Setback of dwellings from the Railway right-of-way to be a minimum of 15 meters.

3. Ground vibration transmission to be estimated through site testing and evaluation to determine whether it will produce unsatisfactory vibration conditions in dwellings, in excess of the acceptable level. If so, residential buildings within 75 meters from the Railway right-of-way to be protected so as to reduce vibration to the acceptable level. The measures employed may be:
 - (i) support the building on rubber pads between the foundation and the occupied structure so that the maximum vertical natural frequency of the structure on the pads is 12 Hz.
 - (ii) insulate the building from the vibration originating at the railway tracks by an intervening discontinuity or by installing adequate insulation outside the building, protected from compaction that would reduce its effectiveness so that vibration in the building became unacceptable, or
 - (iii) other suitable and adequate measures that will retain their effectiveness over time.
4. While no dwelling should be closer to the right-of-way than the specified set-back, an unoccupied building, such as a garage, may be built closer. The 2-meter high earth berm adjacent to the right-of-way must be provided in all instances.
5. There shall be no increase or change in direction of the flow of natural drainage without written permission from the Railway.
6. Dwelling must be constructed such that interior noise levels meet the criteria of the appropriate Ministry. For the upper floors of dwellings closest to the tracks, it may be necessary to require that the building construction incorporate sound insulation in addition to the mitigation measures specified above.

Yours truly,



P. A. Pender
Superintendent

EH/sj

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